











HASKINS ANNIVERSARY ESSAYS  
IN MEDIAEVAL HISTORY

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# ANNIVERSARY ESSAYS IN MEDIAEVAL HISTORY

BY STUDENTS OF  
CHARLES HOMER HASKINS

PRESENTED ON THE COMPLETION OF  
FORTY YEARS OF TEACHING

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4361

HOUGHTON MIFFLIN COMPANY  
BOSTON AND NEW YORK  
MEMBER

Alvord College

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This volume is offered to Charles H. Haskins by his students, past and present, in witness of their affection and gratitude. As scholar and administrator, his achievement is widely known; only his students can appreciate in what measure he has given himself in his teaching, and what continuous influence in their lives has been exerted by his friendship and counsel.

The list of contributors could not include all who desired to take part in this tribute to Professor Haskins; it was necessary to limit the opportunity to those who have written or are now writing their theses for the doctorate under his direction. But in its intention, at least, the volume is representative of the much greater number who rightly consider him their master.

Professor L. J. Farrow of the University of California did not live to see the completion of plans which he helped to initiate and which owe much to his advice.

The editor is deeply indebted to the colleagues of Professor Haskins in the Department of History of Harvard University, and to Professor E. K. Rand of the Department of Classical Languages, for their encouragement and active assistance in the preparation of this book. Especial thanks are also due Mr. G. W. Robinson of Cambridge, who compiled the bibliography and index and gave valuable aid in many other ways. Finally, the editor appreciates the friendly interest in the volume and its purpose shown by the publishers.

PUBLICATION was made possible by the generous support of a number of men and women desirous of furthering medieval studies by doing honor to a great scholar.

C. H. TAYLOR

# LIST OF ABBREVIATIONS

<i>A.E.R.</i> .....	<i>American Historical Review.</i> New York, 1895- .
<i>A.E.C.</i> .....	<i>Bibliothèque de l'École des Chartes.</i> Paris, 1859- .
<i>B.N.</i> .....	<i>Bibliothèque Nationale,</i> Paris.
<i>Cal. Chancery Warrants</i> .....	Great Britain. Public Record Office. <i>Calendar of Chancery Warrants preserved in the Public Record Office.</i> London, 1857.
<i>Cal. Close Rolls.</i> .....	Great Britain. Public Record Office. <i>Calendar of the Close Rolls preserved in the Public Record Office.</i> London, 1893-1908.
<i>Cal. Pap. Rep.</i> .....	<i>Calendar of Entries in the Papal Registers relating to Great Britain and Ireland.</i> Papal Letters, ed. R. H. Ilson, et al. London, 1897-1911.
<i>Cal. Pat. Rolls.</i> .....	Great Britain. Public Record Office. <i>Calendar of the Patent Rolls preserved in the Public Record Office.</i> London, 1895-1915.
<i>E.H.R.</i> .....	<i>English Historical Review.</i> London, 1894- .
<i>E.F.</i> .....	<i>Recueil des Historiens des Rois de la France.</i> Paris, 1739- .
<i>H.A.N.</i> .....	<i>Miscellanea della Società dei Antiquari di Normandia.</i> Caen, 1824- .
<i>H.C.R.</i> .....	<i>Monumenta Germaniae Historica.</i> Hanover, etc., 1826- .
<i>Migne</i> .....	<i>Patrologiae graecae complectens scriptores J. P. Migne.</i> Paris prima, secunda. [ <i>Patrologia Latina.</i> ] Paris, 1844-55.
<i>Parl. Writs.</i> .....	<i>Parliamentary Writs and Writs of Wilhelmy Bonham,</i> ed. F. Polignac. London, 1871-84.
<i>P.R.O.</i> .....	Public Record Office, London.
<i>Prynn, Records.</i>	William Prynn, <i>An Exact Chronological Findeam (sic) of our King's Supreme Jurisdiction over All the Kingdoms of France.</i> London, 1652-55.

Where other abbreviated forms are used, the work is cited in full on the occasion of its first appearance in any article.



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## LIBRARIES IN THE TWELFTH CENTURY: THEIR CATALOGUES AND CONTENTS

In a period of such rapid intellectual advance as the renaissance of the twelfth century it would be of interest to know what books were available to students and which of these available had the greatest popularity and widest diffusion. A good deal may be learned about the processes and range of the medieval mind by an examination of the catalogues of the medieval libraries. "A distinguished student of the medieval libraries has said that the investigation of their catalogues bears a close relation to the history of literature; the latter tells us what was written, the catalogues inform us as to what was read."<sup>1</sup>

Most of the known catalogues from the twelfth century, numbering more than a hundred, have now been printed. A list of the known catalogues up to the year 1890 was compiled by Gottlieb in his register, *Verzeichnis der Bibliotheken* (Leipzig, 1890). Several collections of catalogues have been published, notably that of Becker, in which 118 lists of the twelfth century and earlier are reprinted.<sup>2</sup> A number of catalogues of French libraries are in Delisle's *Catalogue des Manuscrits de la Bibliothèque Nationale*.<sup>3</sup> Collections of the medieval catalogues of the German and Austrian libraries are now in course of publication under the auspices of the academies of Vienna, Berlin, Göttingen, Leipzig, and Munich, those of Austria having been under the editorship of the late Theodor Gottlieb, and those of the German libraries under Paul Lehmann.<sup>4</sup>

Even the formal inventories, however, are often unsatisfactory and have important limitations when used as sources for the numbers and contents of the libraries. Indeed, a number of

<sup>1</sup> H. Rieu, *Manuscript Libraries of Europe* (Vienna, 1894), p. 8.

<sup>2</sup> G. Becker, *Verzeichnis Bibliothekskataloge* (Jena, 1895).

<sup>3</sup> Paris, 1889-91.

<sup>4</sup> *Bibliotheks-Verzeichnisse* (Leipzig: Neudrucke und die Neuzeit (1894-1895- ), vols. 1-4.

*Bibliotheks-Verzeichnisse Österreichs, I. Kaiserliche* (Vienna, 1893).

libraries of the highest importance, such as those of Tours or St. Albans, have left no catalogues or their catalogues have been lost. Nor have we a catalogue of the papal library before 1066.

Often these catalogues are mere check-lists or inventories of the library's possessions, entered upon the fly-leaves of manuscripts or on other spaces empty and available. Account was usually taken only of the number of manuscripts, rather than of the works contained, and volumes were regularly listed by the name of the first work contained; in cases where several works are found in one manuscript these after the first were allowed to go uncatalogued.<sup>1</sup> The volumes are dated cited by brief titles, which are sometimes indefinite, as *liber Papii*, or *discretem auctoritatem liber unus*.

Also, many of these lists have come to us with insufficient indications of provenance and can be identified only as falling within the lifetime of an abbot or bishop, or, according to palaeography, within a period of fifty or a hundred years.

Though the catalogues are thus often inadequate and indefinite, and though their testimony regarding the popularity of individual authors may sometimes be misleading unless taken in connection with the history of the manuscript tradition of their works, yet a perusal of the catalogues can be made to yield much of interest respecting the libraries, the authors therein, and their interest in the twelfth century. The catalogues show that a steady growth both in the number of libraries and in the size of many of the individual collections was taking place during our period. Of the catalogues assembled by Becker, 48 date from the sixth century, 17 from the tenth, 32 from the eleventh, and 46 from the twelfth.

Judged by the present-day standards the book collections of the twelfth century were not large. Few of them could approach the size of that of Reichenau, which numbered 415 volumes in the sixth century, or that of Lorsch with 300, and Bobbio with 400 in the tenth century. Even in the twelfth century such libraries as those of Corbie, containing 340 vol-

<sup>1</sup> I cannot enter suggestions that variation of the actual number of works in the library represent completely the variation found in the catalogues by these lists. Cf. R. H. C. Vannoy, *The House of the World* (Cambridge, 1900), p. 5.



times, and of Durham with 500, were rare. Cluny, rich in everything, had over 800 books. In the case of these larger collections something must be deducted to allow for duplication, of which the catalogues of the greater libraries show a considerable number. Thus Cluny possessed nearly a dozen copies of Boethius' *De consolations philosophiae*.

These figures, taken in connection with the spread of the church to remote lands, show a steady growth in the collection and copying of books. This addition and multiplication of manuscripts allowed the formation of new libraries. Often the mother cloister would furnish a new foundation with a supply of books. Thus the Cistercian sister of Albyon, in Saxony, a daughter of Florin, was furnished on its foundation, about 1170, with a collection of books, which according to the old catalogue, now partially illegible, included the Bible and a number of ecclesiastical writers and commentaries, Hugh of Saint-Victor and Gilbert de la Porée among the most recent.<sup>2</sup>

Another Cistercian cloister, Marksbald, a daughter of Hildesheim, founded in 1183, possessed at the time of its founding, or acquired within a short time thereafter, a library of 75 volumes, among them numerous books of the Bible and commentaries thereon, the Fathers, Seneca, Boethius, the grammarians, and a book on the medical art.<sup>3</sup>

Numerous records of donations inform us of the growth of many individual collections. Thus it was the custom of Bishop William of Troye to offer a book to the church each year on the anniversary of his elevation. During the years of his service (1180-1187) these gifts included volumes of the Bible, John Chrysostom, Augustine, Jerome, Prosper, Gregory, Remigius, and Rabanus Maurus.<sup>4</sup>

Records of two donations of importance, made to the cathedral library of Chartres in the course of the twelfth century, have been preserved. About 1150 Thierry of Chartres, dean

<sup>2</sup> L. Schickel, "Beilage zur Geschichte der Klosterbibliothek Witten in mittelniederdeutscher Sprache," *Beilage des Archivs für Geschichte und Literatur*, vol. 1, 187.

<sup>3</sup> E. Engelking in *Beilage zur Geschichte der Klosterbibliothek Witten in mittelniederdeutscher Sprache*, 1878, p. 181, has reported this catalogue and described it as dated in 1183 or about to that date.

<sup>4</sup> *Beilage zur Geschichte des Archivs*, 1, 187.

rector of the cathedral, died and bequeathed to the library a collection of 80 volumes, including the *Institutes*, *Maxims*, and *Epistles*, his own *Reputationem*, and 45 other works. The *Septem trocha*, in two volumes (nos. 487-488 of the library of Chartres), was an encyclopaedia of the seven arts and contained the most important works in each branch, either entire or in important extracts, thus affording an idea of the range of studies pursued in the schools of Chartres in the time of Thierry, and of the books available there. Included were the works of Donatus and Priscian on grammar, Cicero on rhetoric, Porphyry, the *Categories*, *De interpretatione*, *Prior Analytics*, *Topica*, and *Elements* of Aristotle, extracts from Martinus Capella on arithmetic, Boethius on music, Gerbert, Euclid, and the Pseudo-Boethius on geometry, and Ptolemy on astronomy.<sup>12</sup>

John of Salisbury also bequeathed his personal library to the cathedral of Chartres at his death in 1156. The books included a Bible, Jerome, Augustine, Origen, Lactantius, Leo, Isidore, among the classical authors Cicero's *De officiis*, and *De senectute*, Seneca, Plutarch, and Vegetius, and from the medieval period Rabanus, Lantani, Hugh of Saint-Victor, Sigebert, and John's own work, the *Polycricon*.<sup>13</sup>

The spread of the Roman order and of the burning of England and the continent toward the north is attested in a gift of a collection of books made by Robert, bishop of St. Andrews (1107-1136), to the prior and canons of St. Andrews. The donation included volumes of the Bible, service books, Origen, Prosper, and Bernard, and the canonical collection attributed to Egbert of York, under the title *Expositio*.<sup>14</sup>

In only a few cases do we possess two or more catalogues of definite date, describing the same library at different periods. Where these exist comparisons of considerable interest may be made. Thus the cathedral of Cremona possessed a noteworthy

<sup>12</sup> *Cartulaire de l'abbaye de Chartres*, ed. B. Lapeyre (Chartres, 1880-81), II, 100; *Catalogue général*, ed. H. A. Chrest, *Les livres de Chartres au moyen-âge* (Paris, 1881), p. 170.

<sup>13</sup> *Cartulaire*, II, 101. *Manus. Polycricon* *Antiquaria*, vol. 1, 11.

<sup>14</sup> *Books and Bibles, Ecclesiastical and Intellectual Resources* (London, 1887), I, 7, p. 107. *Manus. of the Bishop of Chartres*, ed. B. Pichin (Edinburgh, 1861), *Polycricon*, *Manus. of the Bishop of Chartres* (Paris), vol. 1, p. 107.

library as early as 1264, when Bishop Ockburn, on his accession to the see, caused an inventory to be made. Besides ecclesiastical works there were present volumes of Virgil, Porphory, Boethius, Priscian, and Donatus.<sup>10</sup> Although not exceptional in size or contents, the inventory is of interest because it permits a comparison with a later inventory of the Cistercian cathedral library, taken in 1294.<sup>11</sup> This latter inventory suggests the mention of a number of manuscripts noted in the first, several being certainly identifiable. On the other hand, there had been a little growth in the interval between the making of the two lists. Of the works which had appeared in the meantime, those of Manegold on the Epistles, Gilbert de la Porree on the psalter, and Bernard appear on the second inventory.

A somewhat similar comparison is possible in the case of the cathedral library of Norwich, where the first inventory, made in 1154, lists sixty items.<sup>12</sup> The library of Norwich shows a distinctly legal bent. Among its possessions were volumes of the decretals of the popes and capitularies of councils, the Code of Justinian, the *Nomus*, a book of customs, and *Concordantia Canonum*. Two other inventories, drawn up in 1212, show that in the interval the library had grown to 73 volumes.<sup>13</sup> Several of the items of the previous inventory are recognizable, but nothing of what had been written in the meantime appears in the later inventories. In the first of the inventories of 1212 it is noted that the *Memoria* of Gregory and the *Proverbia* of Solomon are out on loan, but in the second list, made on the accession of a new treasurer taking office, they appear again in the library.

The Norman monastery of Fountains has left two catalogues of its library which may be compared. The first, drawn up in the early part of the eleventh century, lists 58 volumes, all biblical, minor lives, or works of the Fathers, the latest authors being Bede and Richard Haume.<sup>14</sup> A catalogue of Fountains in the twelfth century indicates considerable growth, mentioning

<sup>10</sup> *Manuscripta publicae bibliothecae Tholomee*, 1875, no. 1242.

<sup>11</sup> *Manuscripta publicae bibliothecae Tholomee*, II, 1875, no. 455.

<sup>12</sup> *Manuscripta publicae bibliothecae Tholomee*, vol. 124.

<sup>13</sup> *Manuscripta publicae bibliothecae Tholomee*, I, 1875, no. 1270.

<sup>14</sup> Cf. de Beaupre in *R.E.C.*, 82, 1898, p. 126, note 5.

about 140 volumes. There are now a few mediaeval classics in these present: the *Aeneid* of Virgil, the *Somnium Scipionis*, and Aristotle's *Physics*. Also a number of recent or contemporary theologies and exegetics have been added, among them Bernard, Ivo of Chartres, the *Book of Ash* of Hugh of Saint-Victor, Peter Lombard's *Sententiae*, Peter Comestor's *Historia*, Bartholomaeus, a collection of Ivo's of saints, and a volume on the erection of the church of Fleury.<sup>17</sup>

There were great differences in the interest and activity displayed in the acquisition of new books by the various libraries. For many religious houses the twelfth century was a period of stagnation or decline. The libraries of several such houses list in their catalogues the works of no author later than the Carolingian period. At Saint-Augustin at Cognac the *Diadema monachorum* of Simeonis is the most recent of 140 volumes noted.<sup>18</sup> The lists of the books of Malmesbury contain nothing later than Raherus Maurus.<sup>19</sup> The latest writings in the library of Anglin were those of Alcin, Bonigius, and Abbo.<sup>20</sup> Of the 96 volumes of the library of Schellhausen in the time of the abbot Reginard (1082-1088), the most recent was the *Epimachia* of Eddow of Seville.<sup>21</sup> In several cases, such as at Michelberg at Bamberg in the first half of the twelfth century, the writings of Alcin were the only works of a date more recent than the Carolingian period.<sup>22</sup> At Muri the *Ornamentum* of Hugh of Saint-Victor was the only work later than the *Diadema monachorum*.<sup>23</sup> Even the twelfth-century catalogue of Cluny does not reveal as full a selection from the works of contemporary writers as do inventories of other and smaller collections.

In other cases, however, the collection of books was more enterprising. In the library of Saint-Victor at Marcellus,

<sup>17</sup> *Descriptio bibliothecae monachialis*, ed. A. Lefebvre (Paris, 1848, *Bibliotheca de France de Paris*, introd. by L. Delisle, p. 21). *Catalogue général des manuscrits des bibliothèques publiques des départements*, ed. E. Bouteiller (Paris, 1895), I, p. 222.

<sup>18</sup> *Ibid.*, p. 146.

<sup>19</sup> *Delisle, Catalogue des manuscrits*, I, 221.

<sup>20</sup> *Catalogue général des manuscrits des bibliothèques des départements* (Paris, 1876), II, 722.

<sup>21</sup> *Ibid.*, p. 124.

<sup>22</sup> *Ibid.*, p. 122. Cf. Bouteiller, "Bamberger Studien," *Zeitschrift*, vol. 142-152.

<sup>23</sup> *Ibid.*, p. 225.

Saint-Martial at Limoges, Canterbury, and St. Peter's at Salzburg were to be found very full selections from the writings of the most important contemporary authors, and in the catalogues of the most of the libraries appear at least a few of the writings of the day, in the early part of the twelfth century most commonly St. Anselm, at a later period Hugh of Saint-Victor and St. Bernard.

The matter of the acquisition of new books brings to mind the question of how rapidly books travelled. This the library catalogues cannot satisfactorily answer, both because only about a quarter of the catalogues may be dated with a degree of definiteness sufficient to make them useful in tracing the progress of individual works, and also because descriptions of individual works in the catalogues are often inadequate and do not allow of certain identification. In the case of the more popular authors the progress of their works is traceable. Thus the works of St. Bernard had spread widely before the death of the saint. By 1131 several of the sermons were in the Lippoldsborg library and Bernard's writings had reached St. Andrews in Scotland before 1132. The *De contemptu mundi* and the *De spiritu sancto* are cited in the catalogue of Reims of 1136. The *Epître apologétique* and commentary on the Song of Songs were included in the gift of Philip, bishop of Reims, to the library of Bee in 1144. The *Distinctiones* and the sermon *De mirandis donis* were in the library of Maastricht in 1146. A volume of the sermons is listed at Whiter about 1160, and before the close of the twelfth century works of Bernard are found at Peterborough, Salzburg, Vienne, Worms, Nuremberg, Corbie, Cluny, and many other centres so widely separated. Though thus widely spread, especially in the Cistercian houses, the diffusion of the works of Bernard was by no means universal. No work of his is found in the library of Nîmes in 1178, nor is one listed in the thirteenth-century catalogue of the Cistercian abbey of Flacey.

Works which supplied debate and intellectual wants, such as manuals of reason and civil law, or the new treatments of grammar, logic, and rhetoric, were rare to spread rapidly. Other works, such as history or poetry, might remain uncopied, or be

failed to create a demand, at a time when such a demand could not be artificially stimulated.

Aside from those libraries which were confined exclusively to theological or liturgical works (such as Kloster, Mülheim, Paderb., and Pöthlingen), there are few cases in which individuality or a special interest in a certain type of literature is to be noted. Most libraries contained works on law, or medicine, or the liberal arts, but it was unusual for a special collection to be made in any one field. As exceptions may be noted Saint-Martin's at Limoges, which at the opening of the thirteenth century was completely equipped with texts of the civil and canon law,<sup>17</sup> and Michelsheim, where Bishop Bruno had collected 40 volumes of medical works, including volumes of Galen, Alexander of Traversetum, Isaac the Jew, and Constantine the African.<sup>18</sup> There were also a large number of medical works in the libraries of Saint-Amand and Durham. The libraries of the north of France, in particular Saint-Amand, Arras, and Amiens, were better supplied with works on dialactic than most of their contemporaries.

The tests for the inclusion of works in the clerical and cathedral libraries were necessity, utility, and interest, while large numbers were added through the accidents of gift or bequest. Nor was the explosion of heresy or false doctrine sufficient to cause the works of the suspected writer to disappear from circulation. Thus the works of Pelagius, though not listed in a twelfth-century catalogue, were available at St. Gall, Leuch, and Saint-Etienne. The works of Claudius of Turin were present at Reichen, Monte Cassino, Aversa, Saint-Basile, and perhaps at Durham,<sup>19</sup> also at Marbach, Marcellus, Munsey, Limoges, and Chary. The sermons of Agobard of Lyons are also catalogued at Chary. The work of John the Scot Presbyter was serious, though condemned at Yverdon in 1030, and at Sens in 1032, had found its way into the libraries of Michelsheim at Bamberg, St. Ulrich, Brix, Chary, and Saint-Basile.

<sup>17</sup> Charles Lohr, *Manuscrits de Saint-Martin de Limoges* (Paris, 1894), *Index*, in *Philobiblia de Paris*, pp. 124-125.

<sup>18</sup> E. Sackel in *Archiv für die Geschichte der Bibliothek*, ix, 188.

<sup>19</sup> *Ibid.*, p. 121.

during the twelfth century or before. Other controversial works were less fortunate. Though manuscripts of Bertholus of Liège are fairly numerous, they appear in the catalogues only at Leiden and at Fagnon. Though the work of Landran against Berengar of Tours is already listed in the eleventh-century catalogue of Wessobrunn and that of Pempsen (1095), Berengar's writings appear in none of the medieval catalogues.

The spread of the works of Abelard in the monastic libraries was possible in spite of his questionable orthodoxy. The *Sententiae* and the *Sic et non* are listed in the following catalogues: by 1108, the *Exempla metricorum* appear in the catalogue of Engelberg of a date between 1142 and 1178, and the *Sententiae* appear also in the twelfth-century catalogue of the monastery of St. Peter's at Salzburg. The gift of Pope Celestine II to the church of Cister de Castello in 1141 included copies of the *Sic et non* and the *Theologia cum abstractione*.<sup>47</sup>

The works of Gilbert de la Porrée also spread widely in spite of doubts cast upon his doctrine. The work considered most dangerous, the commentary on Bertholus' volume on the Trinity, was listed among the school books of St. Peter's at Salzburg, and others of Gilbert's writings were to be found in the list of the books given to Ben by Philip, bishop of Bayeux, who in the catalogues of Durham, Cister, the *Reliquiarium* of Richard of Fournival, the inventory of the cathedral of Cremona, and possibly that of Navarre.<sup>48</sup>

The greater part of the content of the monastic and cathedral libraries was composed of ecclesiastical books; volumes of the Bible, scriptural commentaries, works of the Fathers, and books for divine service. In a number of cases the library was entirely theological and liturgical, and in most libraries the non-ecclesiastical content did not reach one third of the total.

The most common book was the Bible. It appears in almost every catalogue and in those cases where it was not listed it was probably considered as part of the treasure of the church. As a large book the Bible was often copied in several parts, the

<sup>47</sup> This inventory is catalogued in Cister de Castello by Wilson in *Some Institutions*, note 86.

<sup>48</sup> *Index Gallicus*, *Le manuscrit d'Abelard* in 117 with Paris, 1912, p. 194 gives as the ending of the Navarre inventory of 1178.

gospel, gospels, and epistles being preserved in separate volumes for the use of the service. Also other groups of books, such as the Pentateuch, the books of Kings, and the prophets were copied separately. The references in the catalogues to the books copied separately give some idea of those most commonly read. Those appearing in the catalogues more often than others were Genesis, Kings, Job, Psalms, the extremely popular Song of Songs, and of the Old Testament Apocrypha, Tobit, Judith, and Baruch. The Apocrypha and collections of the epistles of Paul also appear commonly.

Adopting the usual order of the catalogues, the Bible is followed by the works of the Fathers.<sup>17</sup> The Greek Fathers did not have an important place in the libraries of the West, in the case of some authors but a single mention being found. The *Shepherd of Hermas* is listed only in the catalogue of Bee, and Ignatius only at Corbie. The works of Origen, however, were widespread, being found at St. Gall, Reichen, Hersbach, Chantebourg, Corbie, and elsewhere.

The works of Gregory Nazianzen were also widely diffused, being catalogued at Reichenau, St. Gall, Lorsch, Humberg, Corbie, Hersbach, Lobbau, Saint-Amand, Hildesheim, and Trier. The sermons of Gregory of Nyssa were in the library at Bee and at Lobbau.

The most read of the Greek Fathers was John Chrysostom. *Homilies* work are listed in the catalogues of Reichenau, Lorsch, Reichen, and Trier. Ephraim's works are found in collections as far apart as England and Fustun, also at Corbie, Lye, and Saint-Amand.

The *Colonia Nivernensis* of the Pseudo-Dionysius the Areopagite is listed in the catalogues of Bee, Chartres, and Wincoburn, and the translation of John the Scot is specified at Cluny and Reichen. Nonantula had a manuscript of the *Epistles* of Dionysius.

The Antiochene Fathers of the West were rather poorly represented in the libraries. Tertullian is noted at Lorsch,

<sup>17</sup> The diffusion of the works of the Fathers and later theological writings is discussed by de Ghellinck, in his observations "De usage des catalogues de bibliothèques médiévales," *Revue des Études Médiévales*, 1914, 5, 371-385.



and Bédouin, at Corbie in the eleventh century, at Hirschau, Alzeu, and Saint-Amand in the twelfth, but his writings were lost from common use. The *Apologiae* is the work most often listed. Casle possessed a shelf of the sermons and tracts, including the *De spectaculis*, *De monachis*, *De peccatis*, *De trinitate*, and *De resurrectione carnis*.

References to the works of Augustine are more common, thirty or more being found in the catalogues before 1100. The *Epistolae* appear to be the most widespread work.

Nothing demonstrates the influence of Augustine on the Middle Ages more clearly than the long lists of manuscripts of his writings in the medieval catalogues. Though his earlier works were not possessed in any one library, almost every house had a considerable selection.<sup>15</sup> The most popular single work was the *De civitate Dei*, though as a rather lengthy book, it was sometimes acquired only in part (3 books, 18 books, 12 books, etc.). Of the original works the *Expositiones in Psalterium* and the *Tractatus in epistolae Paulinae* are cited most often. Other works of frequent occurrence in the catalogues are the *Contra Faustum Manichaeum*, *De sermone Ciceronianum*, and the *Confessiones*, which does not appear as often as might be expected. Though the popularity of the works of Augustine far exceeded that of the writings of others, no individual volume of his attained the circulation of, for example, the *Moralia* of Gregory. The regard which the medieval catalogues held for Augustine is shown by the fact that he is generally accorded first place in their lists after the Bible. The monastery of St. Maurice sometimes reached astonishing proportions. The library of Lorsch in the tenth century had 85 volumes of Augustine out of a total of 400, Bec in the twelfth century had 94 volumes of Augustine, and the monastery of St. Maurice at Naumburg at the same period had 88 manuscripts of Augustine out of 164 in the library.<sup>16</sup>

<sup>15</sup> Bledsoe has been cited as having no work of Augustine in his twelfth-century catalogue. This must not be taken too seriously. The library of Elnon (Bledsoe, p. 100) apparently makes such a case. The catalogue describes about 1100 and the compilation of the collection along other lines makes the absence of anything of Augustine at this important center appear strange or impossible.

<sup>16</sup> Bledsoe, p. 100.

The works of the three other greater Fathers of the Latin church were almost as widespread. The writings of Ambrose appearing most often in the catalogues are the *Exameron*, the commentary on the Pauline epistles, and the *De officiis ministrorum*. Jerome's numerous biblical commentaries were everywhere read and his epistles were especially popular in the libraries of the monastic communities. There are also numerous citations of his translation of the universal chronicle of Eusebius. The popular tone of the writings of Gregory caused them to spread through the libraries everywhere. The *Homilia super Iosueidem*, *Homilia super evangelium*, the *Pastorale*, and the *Dialogi* were all copied extensively. Gregory's *Registrum* appears in the catalogues of more than thirty libraries before 1150. If we are to accept the testimony of the library catalogues, the *Moralia in Job* was probably the most widely read medieval book, exclusive of the Bible. When the inventory of the cathedral library of Norim. was made in 1112, the *Moralia* was not on loan. The same was true when the inventory of the books of Archbishop Bernard of Compostella was made in 1119.<sup>27</sup>

Others of the Latin Fathers are cited less frequently. Hilary's name appears twenty or more times in the catalogues. Works of Leo the Great were at Reichenau, Saint-Wiseler, Lorsch, Eber, St. Emmeram's, Eppoldsborg, Nuremberg, and Chartres, both the *Homilia* and the *Epistolae* being mentioned. The writings of Cassian, who addressed himself to the monks and whose *Collationes* were widely adopted for daily reading, are mentioned in a great number of the catalogues, even of houses where the ascetic temper was least pronounced.

Most twelfth-century libraries contained something of the ancient classics, though their amount and proportion differed widely in the individual libraries. Appearances of Greek books in the Western libraries are rare. The monks of the Greek monasteries of South Italy seem to have lived to themselves and such works of the Greek classical authors as they possessed had no influence beyond the immediate region. Though the library of St. Nicholas at Casale was famed throughout the Tern-

<sup>27</sup> E. Quast in *B.B.L.*, IX, 187.

of Athens and contained a manuscript of Aristotle's *Nicomachean Ethics*. It was in contact with the East rather than the West and this knowledge of Greek drama did not spread.<sup>18</sup>

Plato was known indirectly, in the main. Of his works only the first part of the *Timæus* in the translation of Calcidonius was available at the opening of the twelfth century. Notices of this in the library catalogues are fairly numerous. It was present at St. Gall, Leorsch, Bamersleben, Bamberg, Rastach, Tegernsee, Saint-Bertin, Bee, Aachen, Saint-Amand, Corbie, Engelberg, Salzburg, Whitley, Durham, Reading, Canterbury, Elnshedelsh, and elsewhere. Notices of the translation of the *Republic* and *Phædo* made by Aristippus of Capadocia about 1120 do not occur before the date of the *Bibliotheca* of Richard of Poynford, which describes the *Phædo*.<sup>19</sup> The twelfth-century catalogue of Aachen cites *Plato de conceptis*, possibly a description of the *Timæus*.

Aristotle was more popular in the Middle Ages and his works seemed to be better preserved. Of the logical works available at the opening of the twelfth century the *Categoricæ* were spread most widely, references to this treatise being found in the catalogues of Hildesheim, Montier-en-Dieu, St. Emmeram's, Bamersleben, Pfullen, Reichenau, Weissenau, Saint-Amand, Aachen, Aves, Reichenbach, and with the rest of the *Organon*, at Canterbury and Rochester. The *De interpretatione* was listed at St. Emmeram's, Pfullen, Salzburg, Aachen, Aves, and Fleury. The other works of the *Organon*, which made their appearance in the second quarter of the twelfth century, though adopted by the students of logic, made their way into the library inventa-

<sup>18</sup> The library of Capadocia is described by E. Diehl in *Byzantine Literature of the Middle Ages*, vi, 175 and R. Lohr in *Journal of Theological Studies*, v, 20.

<sup>19</sup> The *Bibliotheca*. Richard of Poynford's second catalogue of a model library is printed by Delehaye, *Patrolog des manuscrits*, ii, 282-283. Richard was chancellor of the church of London, his life falling within the period 1122-1126. His work represents the accumulated knowledge of books in the schoolhouse, a plan of education for the youth of London and especially a plan for the formation of a library. He lists 224 books, with remarkably full descriptions, and a scheme of classification to aid the libraries belonging to his reader. The edition of Evelyn Everett, ii, 1871 and of the *Manuscript of the University of Cambridge* (Cambridge, 1871) and of the *Manuscript of the University of Cambridge* (Cambridge, 1871) have identified a number of items in the *Bibliotheca* with manuscripts described in the medieval catalogues of the Northern library and its specified in the *Bibliotheca* by the University of Cambridge.

ries chiefly. The *Prior and Posterior Analytics* are found in the catalogue of Engelberg by 1174. This monastery possessed a very complete collection of logical works, at Clarendonbury, and in the *Bibliotheca*. The *Elementi* and *Topica* appear in the catalogue of the Monastery of Reading abbey, and the *Elementi* in the catalogue of Benediktbeuern in 1048, and also in the *Bibliotheca*. In the twelfth-century catalogue of the Monastery of St. Peter's at Salzburg appears the item: *Metaphysica et logica Aristotelis*.<sup>16</sup> In a list of text books probably in use at Paris near the close of the twelfth century mention is made of the logical treatises of the *Organon*, the *Metaphysica*, the *De generatione et corruptione*, and the *De animalibus*.<sup>17</sup> The inventory of the collected library of Poissy made in 1124 includes the treatises of the *Organon* and the *Physica*.<sup>18</sup> In general, the logical works of Aristotle and Porphyry, accompanied by the commentaries of Boethius, appeared in numbers in the monastic libraries, but the scientific and metaphysical works, with the commentary of Averroës, did not make their way so easily. For notice of them in the catalogues are slow to appear and not numerous.

Of Greek writings on medicine the works of Hippocrates appear catalogued at Saint' Angelo at Capua, Saint-Amand, Durham, in the medical library of Bishop Bruno of Hildesheim, and elsewhere. Writings of Galen are mentioned in the catalogues of Reichenau, Saint-Amand, Durham, Salzburg, Hildesheim, and other collections. The work of Dioscorides on herbs appears in the catalogues of Saint-Amand, Durham, and Peterborough.

Philosophy is mentioned in the catalogues of Saint-Etienne and Lyon, and in the course of the twelfth century a letter to Abbot Conrad of Teggernsee requested the loan of a manuscript of his works.

Aquinas' *History of the Jews* was regarded in the Middle Ages as a sort of auxiliary to the study of the Bible, and manuscripts

<sup>16</sup> *Ibid.*, p. 116.

<sup>17</sup> Cf. H. Baskin, *Studies in the History of Medieval Science*, 2nd ed. (Cambridge, 1927), p. 153.

<sup>18</sup> *Monumenta Boica*, xviii, 4, p. 124.

of it were diffused very widely, the work being recorded more than forty times in the catalogue.

The mention of two books of Lucian in the twelfth-century catalogue of Saint-Evroul is obviously an error for Lucret.<sup>10</sup>

In all these works of Greek authors available in the twelfth century in Latin translations, there was nothing, it may be observed here, which could give a correct conception of Greek life, which, along with the Greek language, remained largely an unknown field to the twelfth century.

Making use of the evidence furnished by the Henry catalogues we might trace similarly the diffusion of the works of the classical authors of Rome, the Latin historians of the ancient learning, and the writings of the early Middle Ages, having in mind the fact that to obtain a true picture the testimony of the catalogues must be supplemented by the history of the manuscript tradition of these works.<sup>11</sup> Our remaining examples, however, will be devoted to the appearance of recent or contemporary writings in the catalogues of the period 1050-1150.

The reform movement in the church is reflected in the appearance of the works of Peter Damiani. They reached Fulda before the end of the twelfth century and the *liber gratiarum* is noted in the catalogue of Pampou in 1093. In the course of the twelfth century they appeared at Einsiedeln, Michelsberg, Paderb., Selzburg, Wittenstophen, Clugny, Tournai, and Lambach.

The writings of Anselm were spread widely even during his lifetime, especially the *Cur Deus Homo*, cited very often either with or without the name of the author. Mention of the works of Anselm is made in the twelfth-century catalogue of Cher-

<sup>10</sup> *Index* 2, 105.

<sup>11</sup> The latter catalogue is the diffusion of the works of the individual Roman authors in the twelfth century has been first recorded by M. Manitius in "Verzeichniss der Bibliothek der von Bernhard von Mikelsberg," and "Verzeichniss der Bibliothek des abt. Hilary von Mikelsberg," in *Philologus*, 46, 61 (1891-92), and Supplement vi (1895), and in "Philologisches aus alten Bibliothekskatalogen," in *Archiv für Literatur- und Bibliothekwissenschaft*, 1, 1 (1895). Catalogs of classical authors in English library catalogues are listed by E. A. Savage, *Old English Libraries* (London, 1911), p. 102. Catalogs of modern authors in the catalogues are noted by Manitius in "Verzeichniss der von Hilary von Mikelsberg," in *Philologus*, 46, 61, 62, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

reims, Poitiers, Vézère-de-Cenay, Lincoln, Gloucester, Wells-Earl, Götting, and Narbonne, and in the thirteenth-century lists of the books of Reading, Mertonsey, Saint-Martin-de-Champs, and Nîmes, among a number of others.

Remains of Arianism is listed more often in the inventories of the German libraries than in those of France. The *Tragica* itself appears at Whitley, the *Chlodianum* at Bee and Carlin. The *Spensian* *scholia* was listed at Salzburg, Fulda, Götting, Benediktbeuren, and Hildesheim, and a list of books loaned by Tyburnius also mentions it.

The *Enchiridion* of Peter Lombard, which served as a handbook of doctrine, are listed in many of the catalogues. In England they appear at Lincoln before 1181, Peterborough, Durham, Leicester, and Reading during our period, and they were spread widely through the libraries elsewhere, being noted at Dijon, Bee, Coëbe, Andren, Châlons, and Prümberg.\*

The *Historia* *scholastica* of Peter Comestor at once found a place as a companion to biblical studies, and mentions of it in the catalogues from the close of the twelfth century on are numerous in every region.

Among the other additions to the body of theological literature in the twelfth century was the *De fide* *scholastica* of John Damascenus, translated by Burgundio of Pisa about 1150. Though soon cited in the theological literature of the period, to judge from the library catalogues its early progress was slow, one of the earliest mentions of it in this connection being in a bequest of the Bishop of Chichester to the Franciscans made in 1222.<sup>†</sup>

Books of law quite commonly found a place in the twelfth-century libraries. The old tribal codes do not appear in great numbers. Forsey in the eleventh century had the *Sachs* law, and the catalogue of Chartres of the same period listed the law of the *Episcopus* *Franki*. The Lombard law was catalogued in the twelfth century at Salzburg, Mont-Cassino, and Canosa, and in the thirteenth at Val Saint-Remy. The library of

\* E. de Gallez, *Les manuscrits théologiques de l'Ép*, p. 134.

<sup>†</sup> E. de Gallez, *Les manuscrits théologiques*, p. 135. E. Rivet, *Manuscrits de la bibliothèque*, 1, 103.

Archbishop Bernard of Compostella, inventoried in 1188, contained the *Volgothle* code.

The *Corpus Juris Civilis* was beginning to appear in the catalogues. The inventory of the gift of Pope Celestine II to Ciriaco di Castello records manuscripts of the Code and Digest. The bequest of Thierry of Chartres included the *Pastoralis* and the *Five Digest*, and the *Institutes* and *Digests* formed part of the gift of Philip of Burgundy to Boz. The inventory of Novara cathedral library made in 1115 noted the Code and the *Summa*. The *Digest* and Code were a part of the collection presented by Archbishop Thibault of Reims to the bishop of Geneva in 1115. The *Digests*, *Institutiones*, and Code were in the library of Archbishop Bernard of Compostella, the Old Digest being out on loan at the time of the inventory. The library of Beaulieu-lez-Tours had the Code and *Pastoralis*. Peterborough possessed manuscripts of the *Pastoralis* and of the whole of the *Corpus Juris* in two volumes.

In the field of canon law there are numerous citations of collections of papal decretals and of canons of councils. One of the most popular of these was the *Decretum* of Burchard of Worms, compiled at the opening of the eleventh century and early cited in the list of additions made by Frederick, bishop of Geneva, to the cathedral library in 1033. This continued to be preserved in the libraries and cited in the catalogues, though perhaps superseded in actual use by the more systematic collections of Ivo and Gratian. It is noted in the 1281 inventory of the cathedral library of Cremona, though the connection of Burchard with the work seems to have been forgotten in this later period and at times the work is cited simply as *Decretum*.

The *Epistolae* of Ivo of Chartres and his *Summa*, or collection of canons, appear very often in the catalogues. Ivo's name occurs before the end of the eleventh century in a list of books of a certain Robert de Galone, perhaps of Robert-André de Reims (Baudouin, *l'op.*).<sup>10</sup> His works were copied at Chartres under Abbot Henry in the first part of the twelfth century, and in the following period they appear in the inventories of Ciriaco di Castello, Marbacheld, Norimberg, Wimpfrea, Fre-

<sup>10</sup> *Recherches sur l'épiscopat de Reims*, ix, 279. Also Baudouin, ix, 122.

Ising, the Cistercian abbey of Anstola, Bee, Fiesamp, Saint-Martin-des-Champs, Corbie, Bruges, Bruges, and Maastricht, and in England at Durham, Widsay, Elyton, Rochester, and Fleethy.

Gratian's *Concordantia discordantium Canonum* filled an immediate want and came to be included in the libraries and cited in their catalogues at once.

History was usually represented in the libraries, though these and other folio catalogues indicate the medieval preference for summaries and compends. The tendency to condensation is shown in such a work as that cited in the catalogue of Maastricht: *Historia Anglorum, Trojanorum, Romanorum, Longobardorum, Gothorum in una codice*. Mentions of the classical and early medieval historians were not numerous and a fact made most apparent by the examination of the citations of the works of the medieval historians in the library catalogues is that even the most valuable of these works were copied comparatively rarely, few had a wide circulation, and several seem never to have passed beyond the walls within which they were written. Thus the chronicle of Maximianus Sordani is not catalogued except at Canterbury, and there first at the close of the thirteenth century, but Ordericus Vitalis relates that a manuscript of Maximianus was shown to him at Cantorb. The chronicle of Sigebert, containing the work of Reginus, Jerome, and Prosper, was the most popular of the world-history chronicles and was listed at Bayeux, Bee, Saint-Amand, Tournai, Chartres, Liège, and Reading. Baudri of Dol's story of the First Crusade is noted only in the Bee catalogue. Romain of Sauri is not found in the catalogues before the fourteenth century, Peter of Monte Cassino not before the fifteenth. Geoffrey of Viterbo is listed only at Friburg in the thirteenth century, Rainer of Cremona at Corbie in 1080, and Geoffrey de Breuil in the catalogue of Liège. Otto of Freising's *Chronicon* is noted at Fleethy in the latter part of the twelfth century and at Aldersbach at the close of the thirteenth. A number of manuscripts of the *Historia ecclesiastica* of Ordericus Vitalis have survived, but the work is listed only in the catalogue of Saint-Evroul, where the original was preserved. These facts seem to show that the



work of the historians never attained the same degree of popularity in the medieval libraries as did other types of literature.

Local histories were numerous and some, which possessed a general interest, might be copied. Thus the *Costa romaine Antiquariation*, besides being in the library of Angers, was also at Chartres. The *Liex of the Abbots of Chery*, comprising biographies of abbots Odo, Mapoul, and Odilo, was listed (either wholly or in part) in the catalogue of many of the houses of the order. Aside from the library of Chery, the work was found at Toul, Crèpy, Limoges, Angers, Tournai, and Saint-Martin-des-Champs.

Of the twelfth-century poets the works of Hilcheest of Le Mans are mentioned most often. They are cited in the twelfth-century catalogue of Beaumont, Corbie, and Durham, and among others, at Fountains in 1215. The catalogue of Durham lists four copies of the *Epithalam*. Three of these are noted as being in the hands of members of the community for reading.

Alain de Lille is noted in the catalogue of Marienfeld, but notices of his works even at a later date are not numerous. The *Almondbold* of Walter of Chatillon is mentioned by Richard of Fournival in the section of the *Philomena* devoted to poetry.

Of the verse of the Gollardic poets the Clontarf catalogue of 1247 mentions the *Tractatus Gollardii* or *Apocryphus of Gollard*, while in the *Philomena* is the item *Muscul Bernardi Gollardii* or *seruus Primati darchienensis de canone*. The fact that much of this material was scattered, fragmentary, or uncollected may have prevented its being listed in the catalogue in other cases where it existed in the libraries.

The works of the poets, as those of the historians, appear less frequently in the catalogue since they met less immediate needs. When works on science or the useful arts were wanted in verse there was no lack of copies and corresponding citations in the catalogue, as witness the volume of Macro on herbs, of which Martinus has recorded no less than 37 notices in the library catalogue.<sup>22</sup>

Gualter, the author of the fundamental work on magic, appears in the catalogue of nearly twenty libraries of our period, first

<sup>22</sup> H. Martinus, *Descriptio de Bibliotheca Librorum de Friburgo*, 2, 147.

at Epsom, then Winchester, Beak, Lambach, Salzbürg, Lincolne, Chary, Angers, and elsewhere.

The works of Gerbert are not mentioned often in the catalogues, his writings on the astrolabe and the abacus being listed at Toul, the *Epistolar* at Chary, and the *Geometria* at Beak.

The *Epistolar* of Fulbert of Chartres were at Beak, Chary, Angers, Bolder, Lincoln, and Glanvillbury, his sermons at Pontigny and the *History of Saint-Pierre* at Chartres, while an eleventh-century donation to Treguennec cites (without reference to Fulbert) the *De divisione et conservatione numerorum, de partibus unius*.<sup>17</sup>

If the testimony of the catalogues be accepted, the spread of the works of John of Salisbury was not rapid in the period up to 1155. The *Epistolar* was at Canterbury in 1170. The *Philosophia* formed a part of his bequest to Chartres cathedral at his death in 1159 and is listed in the catalogue of Rochester in 1190. In the Glanvillbury catalogue of 1201 appear the *Forma* of Master John of Salisbury, with the comment *utlibet*. The *Philosophia* is also listed in the thirteenth-century catalogue of Pontigny and in that of another French library (unidentified).<sup>18</sup>

The *Philosophia* of William of Conches is named in the catalogue of Chartres and in the catalogue of Prebening in the item *Philosophia de physica*.<sup>19</sup> On the whole it may be said that the new works in the fields of science spread slowly through the libraries.

The popular romances found their way into the libraries of the religious houses. Thus the *Historia Apollonii regis Tyri*, turned into verse in the tenth or eleventh century, was listed in the libraries of Gorn, Loden, Saint-Amand, Marcot, Toul, Wissembourgh, Salzbürg, Winchester, and Rochester, and the earlier form at Reichman and Saint-Wandrille. The *Historia Karoli Magni* of the French-Turpin, written in the period 1100-1150,<sup>20</sup> and connected with the pilgrimage to Compostella, is first noted in the catalogue in the twelfth-century list of the books of Lyons and at the opening of the thirteenth century at Lincolne.

<sup>17</sup> Bédier, p. 108.

<sup>18</sup> Bédier, *Catalogues manuscrits*, I, 110.

<sup>19</sup> Bédier, p. 111.

<sup>20</sup> J. Bédier, *Les romans de l'épopée*, 2nd ed. Paris, 1914-15, II, 82.

Books in the vernacular are cited rather rarely in the library catalogues. Books in German are noted in the catalogues of Hildesheim, Weismainburg, Passau, Trier, Hagenzburg, and Saint-Riquier, the volumes listed being chiefly the gospels, psalter, and *Book of Songs*.<sup>17</sup> The gift of Bishop Leoelin to the cathedral and monastery of Exeter in 1072 included a number of religious books and a volume of Bede's in English, probably the translation of King Alfred. The inventory of the abbey of Burton, made after 1175, listed a number of service books, a volume of Gregory and one of Apollonius of Tyre in English. In the twelfth-century catalogue of Evesham a special rubric introduces a list of eight books in English, among them being three collections of homilies, two chronicles, a volume on the nativity of St. Mary, Pauline, and a history of England, *Elfric's Ser.* Chatterbury in 1187 had the history of the capture of Antioch. The thirteenth-century inventory of the library of the Cistercian abbey of Flaxley listed a *Physiogn* in English and several lives of saints in French. The book of the privileges of the cathedral of Toledo in 1199 notes four Arabic texts on geography, the *Liber Rosi* and *Liber Alibi Capitulati* being named.<sup>18</sup>

An examination of the library catalogues of the twelfth century shows that libraries were fewer and less richly supplied with books in some regions than in others, as, for example, they were fewer and less extensive in the south of Italy and in Spain than in France or Germany. These differences did not extend to the character of the collection or the choice of works included, which, if we disregard the natural inclusion of a certain amount of local material, remained much the same everywhere.

There was thus a great deal of difference in the selection of books made by the various types of houses or orders, as such. A cathedral library did not differ radically from a monastery library. The newer orders were not more zealous in the collection of books than were the older, though Peter the Venerable said of the Carthusians in 1144: "*Silentio, lectio[n]i, oratione, vigiliis operi manibus, maxime in archidiaconis libro inoperto*

<sup>17</sup> *Ibid.* p. 102.

<sup>18</sup> *Ibid.* ch. ix and ch. ix history, 14, 16.

indicated."<sup>28</sup> The libraries of the Cistercians were designed to assist their religious study and for this reason were largely confined to biblical and patristic texts and commentaries. Thus the Cistercian houses of Zwettl and Helliggenkreuz had libraries almost exclusively theological and liturgical, while the neighboring Benedictine monastery of Gernrode had volumes representing the fields of grammar, rhetoric, music, astronomy, and medicine, and a number of classical authors. This singularism is to be noted in all the twelfth-century catalogues of the Cistercian libraries. Not until the thirteenth century were there many libraries of Cistercian houses such as that of Pontigny, which possessed volumes of Quintilian, Seneca, Valerius Maximus, Boetius, Duns, and Apollonius of Tyre. By the thirteenth century, however, the Cistercian libraries were not to be distinguished from those of their neighbors from the point of view of content.

The catalogues of books serve as well to reflect the changing interests of our period. The opening of the twelfth century had been marked by an increasing interest in the Latin classics, followed a little later by the growth of popularity of texts on dialectic and the newly-discovered science. The assimilation of all this material is marked, in the closing years of the twelfth century and in the succeeding period, by the composition, copying, and spread of a great number of compendia and commentaries, or *summae*, in nearly every field of learning, such as the *Summae* of Peter Lombard in theology, and the *Historia naturalis* of Peter Comestor for biblical history.

It is in registering these advances or changes in intellectual and literary tastes that the catalogues may serve as reflections of the interests of the time. But they are not an entirely complete or satisfactory register. As the spread of most books was dependent on meeting a demand or fulfilling a need, this spread could not be hurried and it took a long while for a work to become a classic. For this reason the works of many of the important twelfth-century writers seldom appear listed in the catalogues of their own day, and for the same reason the

<sup>28</sup> *Ugbo, ibidem*, 100; P. Lehmann, "Bibliotheken und Bibliothekare bei den Zisterziensern," *Monumenta Praemonstratensis* (Bonn, 1896), I, 100.

catalogues are better as a register of what the twelfth century was supplied with in the way of books than in earlier periods, than as a reliable gauge of the popularity and diffusion of works of contemporary authors.

Collectively, however, as reflections of the range and variety of medieval interests, and individually, as indications of personal tastes, the catalogues are most enlightening. The historical turn of mind is attested in the gift of Giovanni di Legnano, when he presented his library of four volumes, the encyclopaedia of Isidore, Isidore, Gregory of Tours, and Paul the Deacon, to the church of San Giorgio at Monza.<sup>14</sup> The lists of the books of the individual monks appended to the library catalogues of Durham distinctly show us William de Nunnerwick, the student of the lives of the saints, and Guericus the classical.<sup>15</sup> Some of the interests of the greatest classical scholar of the day are indicated in the collection of books which John of Salisbury bequeathed at his death to the cathedral library of Chartres. And, more generally, any statements respecting the popularity and diffusion of the works of Augustine in the Middle Ages could hardly be more effective than a glance at the extended lists of his writings in the catalogues of the libraries of Chartres or of Limoges.

JAMES STUART BISHOP

<sup>14</sup> *Isidore Paris*, iii., no. 175.

<sup>15</sup> *Ibid.*, p. 181.



## THE ENGLISH MANORS OF THE ABBEY OF LA TRINITE AT CAEN

The Abbey of La Trinité at Caen founded in 1066 by William, Duke of Normandy, and his wife Matilda, received, in addition to its endowment of Norman lands, several manors in England from William and Matilda, William Rufus, Henry I, and other less prominent donors. Of these holdings, Mischin Hampton, Finbury in Dorsetshire, Axwold, all in Gloucester, Tibbald in Wiltshire, Hoxstead in Norfolk, and Felsted in Essex are not only mentioned in the annual budget or *littera Hæ.* of the Chantry of the abbey<sup>1</sup> but are also described in two accounts in the Chantry. If these accounts are certainly of the twelfth century, they form a useful addition to the few specific accounts of English manors in the century after Domesday.<sup>2</sup>

These notices form two distinct series, of which the series first in the arrangement of the Chantry seems also first chronologically, because of its greater simplicity and brevity. The second series is composed of reports made by sworn inquests, a fact which supports the presumption that this series dates from the reign of Henry II.<sup>3</sup> In the report of damages done to the abbey's property on the manor of Felsted by Simon de Felsted, detailed by a sworn inquest, it is said that Simon held a piece of land in the time of Henry the Old.<sup>4</sup> The statement is made in the Tibbald inquest<sup>5</sup> that this manor had the hundred of Dole as long as King Henry ruled. These inquests were probably made, therefore, when Henry II had restored order after the anarchy of Stephen's reign. Moreover, the handwriting of the bulk of the Chantry is the minuscule with rounded forms characteristic of the second half of the twelfth century. One scribe obviously copied the documents

<sup>1</sup> R.N., MS. lat. 1025.

<sup>2</sup> *Statuta in Villegis Tibbald et Felst de M. Charlie Sancte p. et an. Caen* (Paris, 1912, p. 76).

<sup>3</sup> E. H. Hallam, *Norman Feudalism* (Cambridge, 1906), p. 141 and note 42.

<sup>4</sup> Chantry R.N., MS. lat. 1025 fol. 10v. <sup>5</sup> *Ibid.*, fol. 43.

contained in the first eighty-six folios. Twelfth-century documents are copied on folios 87 and 88 in a characteristically thirteenth-century hand, similar to that in which a marginal note dated 1280 is written on folio 85v. It is clear that the accounts of Folsted, Pinstary, Tarrish, Hampton, Horstead, Tidhead (called *Disenful*), and Avening, which compose the first series in the Charters, can go no further back than the reign of Henry I; for Horstead was the gift of William Rufus and Tidhead of Henry I himself.<sup>1</sup> The appearance in these accounts of the *hardari* "so conspicuous in *Domesday*" who "disappear almost entirely in later times"<sup>2</sup> may be adduced as evidence, in addition to their uncertainties, that these records are no later than the reign of Henry I.

Finally, a comparison between surveys and extents dating certainly from the reign of Henry I and this series of uncertain period should show whether the suggested date is feasible. The *Liber Niger* of Peterborough Abbey, two fragments of extents in the Burton Charters, and a brief account of Portwood manor will serve as the basis for such a comparison. The Peterborough survey<sup>3</sup> was made between 1143 and 1148.<sup>4</sup> Two headings in a thirteenth-century hand ascribe the first account of the Burton manors to the time of King Henry and Abbot Nigel, who died 1112, and the second to the time of King Henry and the first year of Abbot Geoffrey, 1114.<sup>5</sup> The account of Portwood, preserved in the Charters of St. Denis, Southampton, describes the obligations of the manor in the time of Henry I before it was given to St. Denis.<sup>6</sup>

The records of Burton, Peterborough and La Trinite begin the description of each manor by stating the number of hides in it. Each of these accounts further states, in most instances, the amount of land held in demesne.

<sup>1</sup> W. Douglas, *Norman Conquest* (London, 1871-82), vi, n, p. 204.

<sup>2</sup> F. Vigant, *Manors in England* (Oxford, 1882), p. 149.

<sup>3</sup> *Norman Peterborough*, ed. Thomas Vaughan 1848 (London: Parker's, appendix, pp. 147-152).

<sup>4</sup> *Ibid.*, Vaughan's note, p. 147.

<sup>5</sup> *Volume v*, part 1, of *First Series of Collections for the History of Hampshire relating to the Winton and Antiquities Society* (London, 1888).

<sup>6</sup> British Museum, additional MS. 12143 (Buckley in *Manors of Southampton*, p. 80).



In the second place, the classes of tenants and their services are described. The tenants in all these records fall into two classes, those who owe customary labor and those who owe money rent or free service. The services owed by each are much the same on every manor. The most obvious difference is the detail with which the Peterborough survey describes the customary rents due at Christmas and Easter and St. Peter's Day, the slight notice given such rents by the Burton records, and the complete absence of any rents but work and money in La Trinité's account. La Trinité differs from the other abbays in classing land as *ad opus* or *ad publicum* without further detail. Only in the record for Felsted are the labors of the tenants described fully; and even this account is scanty in comparison with the detail given in the Peterborough survey, the Portwood account, and the Burton extents. Yet it is clear that the quantity and quality of work work and home work were approximately the same on the manors of each of these abbays. The regimen of Felsted which work four days a week, ploughing at Christmas time, harrowing, ploughing in the summer, mowing, doing two home works, making money payments at Easter, are typical. Without parallel on other abbey lands are the duties of the work, both male and female, of La Trinité who work every day except Saturday<sup>12</sup> — as the late-twelfth-century villains will work.

The evidence from all four accounts supports the statement that "in the vast majority of cases, rent-paying land retains some remnants of services and land subjected to village-work pays small rents."<sup>13</sup>

Next in importance to the class of a manor and the number of its tenants with their rents and dues is the instrumentation of the manor. The accounts of La Trinité describe the complement of livestock on each of its manors more fully than the Peterborough survey or the Burton extents. The age and sex of the oxen, of the cattle, of the horses, and of the sheep are specified.

The accounts of Burton, Peterborough, and La Trinité record the mills, churches, and markets held by each abbey in its

<sup>12</sup> Chetwynd, *ibid.* 22, 22.

<sup>13</sup> Tugwell, *Philosophy* 2, 175.

manors. Details as to buildings are given for the manor of Harwood.

Of the four accounts, only the Black Book of Peterborough makes a systematic running up of the rents from each manor. Dutton never totals its dues, La Trinité only once, for Harwood.

The parallelism of these four records seems to be sufficient to mark them all as of one period. The salient points selected for treatment, the general conditions revealed, the brevity and lack of detail, all seem to point in that direction.

The serious inquiries of the late twelfth century are almost as much concerned with estimating the losses to La Trinité caused by Simon de Felsted as with describing the abbey's English manors. Simon seems to have received at farm all the English manors of La Trinité. His name is explicitly mentioned in connection with Felsted and with Hampton and Avening. On July 25<sup>th</sup>, of the Charters, Simon is said to have seized the manors of the abbess of La Trinité, contrary to her will and the will of the whole convent and contrary to the oath which he swore in the abbey's chapter by command of the king.<sup>41</sup> The charge against Simon then runs that he had proved 80 marks against the abbess "most unjustly and unskilfully" of which she had paid fifty marks. Then follows an account of seizures on the manors of Hampton and Avening. The sum of Simon's debts here came to 80 marks, £s. 4*l*.

The evaluations of these losses are based upon the testimony of the abbess's men, once described as her *legitimi homines*. This memorandum, therefore, though set off by itself in the Charters, is a section of the serious inquiries on Hampton and Avening. The case is the same with the independent account of the "destruction of the woods"<sup>42</sup> which begins, "The men of Avening say" and bases one statement upon "the oath of your men." The loss is measured by the number of swine which could feed in the woods when Simon received them in comparison with the number of swine which could feed in the woods when the inquiry was made. The woods had been more than half destroyed. All accounts agree that the harm was done by

<sup>41</sup> *Book I*, m. 1*o* 4*l*.

<sup>42</sup> *Charters*, fol. 2*iv*.

chained barrows, sub-burrows, and sales and gifts without profit to the vill.

The account of Feolsted<sup>1</sup> would deal only with illegal enclosures made on the demesne of Feolsted by Simon himself, particularly assarts in the forest of Essex, as for example the assart of Hartholdehele.

Simon is doubtless the immediate cause of the inequity of the second part of the twelfth century. In any case, the early assessments would have proved unsatisfactorily meagre with the passage of time. After a period of upheaval like Stephen's reign, their picture of conditions would, in addition, be utterly false. For every proprietor, a careful valuation of losses suffered during "the anarchy" was necessary to the successful balancing of receipt and expenditure. Henry III left the heirs of this truth, with regard to his own inheritance. In Feolsted acted upon it and, under the influence either of his precept or of his example,<sup>2</sup> had inequity made upon all its English manors with the exception of Turrest Lancaster in Dorset. The Calendar of Patent Rolls<sup>3</sup> proves that, in the fifteenth century, the yearly farm of this manor was the least in value of all the abbey's English manors. Perhaps because of its relative insignificance, perhaps because of its immunity in Stephen's reign, no inequity was made, or at least, no inequity was reported, for this manor.

All the reports of inequities contained in the Chancery, with the single exception of the report on Feolsted manor in Essex,<sup>4</sup> open with the list of "those who took an oath," that is, the jurors. Since, however, well toward the middle of the Feolsted report occur the words *hinc directi jurati*,<sup>5</sup> there can be no doubt that the information about Feolsted, as well as the information about Hartholde, Hampton, Aveing, and Fishery, was obtained by a sworn inequity.

The data compiled about Feolsted is neither very detailed nor very interesting. The first section consists of a list of thirty-six tenants, teneants, and services. The holdings are not

<sup>1</sup> Chancery, fol. 89v.

<sup>2</sup> *Ibidem*, *Writs*, introduction, p. 22.

<sup>3</sup> *Pat. Roll*, 1214. 12 July, 1433.

<sup>4</sup> Chancery, fol. 1214v.

<sup>5</sup> *Ibid.*, fol. 89.

larger than a half-virgate, for the most part. Many of the tenements are *assata*, a few are *gervat*. *Assata* and *quarters* as well as *virgates* are used as units of measurement. The services, in some cases, could simply be money rents. The usual rent for an *assata* is *td.*, and at the most *td.* The object of such a small rent was, of course, the inducement thus offered for the development of unimproved land. The majority of the tenants held for *labore servitio* (*opus*) as well as a money rent, but no details of the *labore servitio* are given. One man serves for his land as a *harvestor*, another as a *reindeherd*. Two men owe, as their only services, the provision of ploughs. *Ad placitum abbatis* is a phrase which frequently follows the statement of a money rent or service. Does it mean that a money payment was not always demanded, that it was demanded only when the abbot pleased? The most natural interpretation of the phrase when it follows *opus* is that the abbot required the sort of work she needed most. When a man is said to serve as a *harvestor* in payment for his land, at the abbot's pleasure, the phrase seems to apply to the duration of his tenure. Perhaps, in such case, the meaning is that the tenant held on these terms only so long as the abbot pleased. The list of tenants, tenements, and services ends with the statement of rents from three mills and pasture rights.

The next section, which I have already discussed, concerns Simon de Folsted. The third section is headed, "Of those who occupied *demense* unlawfully." Robert, son-in-law of Simon, with his brother, and Herman, the *procurator* or *curer*, are here mentioned, and the strips of *demense* culture, waste, and pasture occupied by each of them. Then it is written, "The jurors say that almost all the men of Folsted, except those of *Salleg*, hold of the abbot's *demense*, save *fine*."<sup>17</sup> The last section is a list of those who have houses in the market-place in front of the abbot's gate, twelve names in all.<sup>18</sup> Two oddlers, a *harvestor*, a *clock*, and *man* appear in the list. There is no mention of service or rent.

The account of the manor of Tilthead opens with the list of jurors.<sup>19</sup> Then follow the names of sixteen tenants whose

<sup>17</sup> Chartulary, fol. 24.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*, fol. 24c.

tenements vary in extent from half a virgate to a virgate to half a hide, and each of them pays a money rent and curia. A second section, headed, "These are villans" (*villani*), is composed of fourteen names, each followed by the statement of a money rent. At the end of the list, it is stated that all these villans will harvest *pro parte*,<sup>16</sup> that is, on a share basis, at the will of the abbot and his servants. The portion of the vill pays 2s. for one hundred sheep in pasture and he has one hundred sheep and five wethers quit. The names of nine tenants in demesne and the size of their holdings follow. The report on the inquest closes with the following statement: the church of Tithford is in the gift of the abbot; Tithford had the hundred of Dole, that is the profits of the hundred court, as long as King Henry ruled, but in time of war it was delivered and still is the men of Glouc claim common pasture in Tithford and this is the rent they must pay. Finally, the instruments of the manor is set forth in detail: the livestock with its evaluation, the grange in which the arable land was held out, and a barn. The report on Tithford is an unusual example, among these inquests, of well-digested information thoroughly well arranged and organized. Perhaps its well-built structure is due to the smallness of the manor under inspection. The Tithford report is also unusual in that it contains no account of damages suffered by the manor.

Certain sections of the inquest on Avening and Hampton follow the Tithford inquest in the Charters.<sup>17</sup> This inquest on Hampton and Avening presents such a tangle that the discussion of it may well be postponed in favor of the Horsted report,<sup>18</sup> which interrupts its course.

The inquest on Horsted opens with a list of fourteen jurors. The names of thirty-eight tenants and their dues and services are then listed under the heading, "These occupied demesne unlawfully." Illegal seizures of demesne are soon, from such a list, to have been even more common in Horsted than in Polesd. The amount of land held by each tenant is not specified. Each owed, besides a money rent which varies in size, services of ploughing and reaping, one hen at Christmas, and five

<sup>16</sup> Charters, fol. 26.

<sup>17</sup> *Ibid.*, fol. 26v-27.

<sup>18</sup> *Ibid.*, fol. 27-28.

age of Easter. The number of ploughings and reappings varied from one to three to five. A few tenants paid a money rent for all services. Tenements called *cellars* appear. One man owed 3*l.* from three *cellars*,<sup>2</sup> another 3*l.* from two and 3*l.* from one.<sup>3</sup> The amount of rent makes it probable that *cellars* was another term for assart or waste land now, for the first time, brought under cultivation. The man of Dalgate,<sup>4</sup> apparently a member of Harwood manor, owes 3*o.*, three days in autumn, a hen, and eggs, like those who had occupied demesne. Twenty-seven *landstotes* also held those who seem to be land with, like in French parishes.<sup>5</sup> The man of Stanpholde, another member of the manor, owes 15*l.* for carrying the farm to Fobbed. Two men are said to hold of demesne and to pay rent. Then follows, under the heading "Concerning perpetuities," a list of thirty-five men who hold from one to thirteen acres and are said to have disinfested themselves, to have built houses on these acres. The difference between these men and those who had occupied demesne unhappily may be that the former squatted upon the land which they had occupied and that the latter added outlying lands to a tenement which they already enjoyed. There is no description of the rents and services for which these houses are held. The list ends with the statement that three mills of Harwood are worth 1*8* a year. 1*8* was the sum of the income from Harwood as given by the early twelfth-century account. Finally comes a statement as to the destruction of the woods of Harwood. It might seem possible that the two lists just described, one of rents owed for occupations of demesne and the other of the amount of land in such perpetuities, are but two approaches to one subject. Yet, since only nine of the names of holders of perpetuities can be certainly identified with the names of those who occupied demesne, the conclusion is inevitable that there are two separate series of encroachments upon demesne. One cannot but be struck with the fact that the only tenants upon Harwood, according to the legend, are men who have assart demesne and whose services have been regularized. It may be that the sole object of the legend was

<sup>2</sup> Chetwynde, fol. 2*l.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, fol. 2*ro.*

<sup>5</sup> *Chetwynde, Folio 2*ro.**, p. 126

to record legal and extraordinary tenures and that the jurors, therefore, omit all reference to normal tenures.

The first instalment of the Inquest on Hampton and Arving is the Chetwodey census between the accounts of Prieland and Hottensel.<sup>16</sup> It bears no heading and begins, "These are those who took an oath." After a list of eighteen names, it is written, "These took an oath and all others in Hampton and Arving." Forthwith begins a series of descriptions of tenements, including the name of the tenant, the extent of his holding, and the quantity and quality of his dues and services. It is clear that these tenants held in Arving from the fact that all this information is repeated a few folios later under the headings, *de Arvingia prima*<sup>17</sup> and *de Arvingia secunda*.<sup>18</sup> After the list of tenants in an undesignated locality, follows another list of tenants headed *de Hantonia* with the subheading *de Hantonia*,<sup>19</sup> the latter being clearly a subdivision of the manor of Hampton. This list also is repeated under the heading *de Hantonia*.<sup>20</sup> Each of these repetitions is the result of more than a verbal error. The first account of Arving and the second differ completely as to the order in which the names of the tenants are listed. Not all the tenants appear twice over. The amount of land held by a given tenant and the money rent owed are usually the same but the services do not always tally. The first account frequently notices carting as a service whereas the second consistently omits it. The first runs along in one division whereas the second has two headings, "The farm of Arving"<sup>21</sup> and "Those are they who pay rents," with the subheading, "Concerning the labourers."<sup>22</sup> In the second account, the services of a virgater and of a cotstiller<sup>23</sup> are detailed at great length, as typical of the services of all labourers of their class. The first account has nothing to match this detail. The two accounts of Hantonia differ only in the order in which the names occur and in the appearance, at the close of the first account only, of a list of eight names preceded by the statement, "All these sworn to this."<sup>24</sup> None of these names occur in the list of jurors for

<sup>16</sup> Chetwodey fol. 22-23.

<sup>17</sup> *Ibid.*, fol. 27v.

<sup>18</sup> *Ibid.*, fol. 28v.

<sup>19</sup> *Ibid.*, fol. 27.

<sup>20</sup> *Ibid.*, fol. 28v.

<sup>21</sup> *Ibid.*, fol. 27v.

<sup>22</sup> *Ibid.*, fol. 27v.

<sup>23</sup> *Ibid.*, fol. 28.

<sup>24</sup> *Ibid.*, fol. 27.

Hampton and Avering. They must represent the local jury of Hamstead. At the close of the second account of Avering is information on three heads, which are omitted from the first account.

I shall come back to the details of these inquests after considering the forms in which the inquest on Hampton<sup>10</sup> proper was copied into the Charters. Immediately after the inquest on Hamstead is copied the destruction done to Avering wood under the heading, "Concerning the tènement of Avering,"<sup>11</sup> followed immediately by the destruction of Hampton wood under the heading, "Concerning the tènement of Hampton."

Next comes the inquest upon Hampton manor proper. Under the heading, "Concerning the franchises of Hampton and the customs of the vill and the rents," follows a list of tenants, tènements, and services. After eight names, comes a sub-heading, "At Stafford,"<sup>12</sup> is all probably a member of Hampton, followed by the same type of list. Next, the tenure by which a given cottager holds is described in detail and the names of those holding according to this tenure are recorded. Paragraphs of detail about the ploughmen and shepherds of the vill, the services owed by a working vassal, and about tithings, come. The account of Hampton ends with a list of tenants and their holdings which would more naturally form part of the list with which the report of the inquest began. In copying, this fragment of the list of franchises was clearly omitted and then tacked on here. This is proved by the second version of the inquest upon Hampton, in which these names do form part of the first list, for the inquest on Hampton, like that on Hamstead and on Avering, appears twice over in the Charters.

The two versions of the inquest on Hampton differ, on the whole, less than the two versions of the inquest on Avering. The most striking difference between the two versions of Hampton comes at the beginning. Under the heading, "Concerning the tènement of Hampton" — which in the first version preceded the account of the destruction of the woods — the second version<sup>13</sup> describes fully the services of four tenants who are

<sup>10</sup> Charters, fol. 89v-90.

<sup>11</sup> *Ibid.*, fol. 91.

<sup>12</sup> *Ibid.*, fol. 91v.



completely omitted from the first version. Under the heading, "Concerning those who pay gabols freely,"<sup>1</sup> names, in the second version, the list with which the first version opens. These *Parsonses* are to be equated with those *qui gabolent librement*. The first eight names in this list in the second version are omitted from the list in the first. The most important contrast between the two versions for Hampton is due to the omission by the first version of the first tenants who, in the second version, precede those who pay gabol freely. The services of one of these four tenants, Adam Spill, are fully described<sup>2</sup> and subsequently are quoted again and again, in the second version. A man is said to hold so much land, to pay so much rent, to do work in August, and to "do customs like Adam." This phrase does not, of course, occur in the first version since Adam does not. Thus a tenant is said to pay a certain amount of rent and to do work in August or to work for his sole service.

In the second version, as in the first, the cottagers follow immediately upon the *franchises*. Here the order in which the names are listed is different. In the second version, the services of a cottager other than the cottager chosen for the same purpose in the first version are detailed as the type of the services owed by all cottagers. The services owed by a "working virgin" are described in the second version immediately after the cottagers — surely a more logical arrangement than that of the first version. Then follows the information about ploughmen and the like, information identical with that of the first version. The wording of each account varies slightly and the arrangement of sentences differs widely. At the end of each version is a brief account of the tenants of *Pinbury*.

It is clear from such an account that the repetition is not due to the stupidity of a scribe who copied over the same document twice without recognizing it. La Triche must have received from England two versions of the inquests on the Gloucestershire manors, versions just different enough to justify the pains of a scribe in copying each. The differences in the two accounts of *Bastards* and *Hampton* are slight enough to make possible the theory that two men or two sets of men dictated and set in

<sup>1</sup> Chancery lat. 21.

<sup>2</sup> *Ibid.*, fol. 109-11.

under the report of one inquest. The differences in the two accounts of Avering, on the other hand, are so striking as to make possible the theory that there were two distinct, contemporary inquests on this manor. A final solution of the problem is impossible.

The information on manorial conditions contained in the Gloucestershire inquests is far fuller than that found in any other of the twelfth-century inquests made for La Trinité.<sup>12</sup>

The men of these manors, in addition to paying money rents, perform the usual services: ploughing, sowing, often with their men as if for themselves, carting, and bedding or boom work at harvest time. One seems to have a note of readiness in a report like that of Richard of Avering who *dominus cum suis quod manerium suum et* that of Walter the miller which seems to be *cratic decem, ferre quatuor plures fere.*<sup>13</sup> We are clearly in a period of indefinitely measured services. Godwin of Avering, besides ploughing and sowing for his own vineyard, provides loans for four ploughs and mules for two plough-ears in front, and eight oxen and eight hox, and he mends the harps and fastenings of doors and in alternate years gives ten horseskins. Thus, he receives, in addition to his own vineyard, an acre of domestic wheat in the autumn.<sup>14</sup> Walter of Avering added to his agricultural labors care of the park and the fish pond.<sup>15</sup>

It is from an account like that of the services of Lewis, taken by the jurors as typical of the services of all the *operarii* or villeins of Avering, that one understands the relative advantages of the status of men like those who have just been discussed, men who in a technical sense held freely. They held freely, in that their money dues were fairly heavy and their labor services fairly light. Land owing both money rents and labor services, as land in the Middle Ages commonly did, was free or unfree according as money or labor services predominated.<sup>16</sup>

In Lewis's case, labor predominated. He worked with one man every week-day save Saturdays. For ploughing two men

<sup>12</sup> For discussing this information I shall not refer to volume in the two volumes [et.] I shall derive the information from the most detailed account in each case.

<sup>13</sup> Chart. Avon. fol. 40, 40v.

<sup>14</sup> Ibid., fol. 47v.

<sup>15</sup> Ibid., fol. 48v.

<sup>16</sup> Turgot, *Économie*, pp. 179-181.

of fallow land as here in the summer, he was quit of two days of this week work and likewise for two acres in the winter. He threshed, harrowed, with his horse, hauled with one man, at certain seasons. Besides this he cured butter and whey — which seems to mean a boom work on the part of his wife,<sup>12</sup> or of a woman. He carted every week. He had to make muck. For drying it, he was allowed to take wood without paying damages. Besides all his extra ploughing, harrowing, and weeding, he ploughed and reaped like the others — who held freely.<sup>13</sup>

The typical cottolider — that is the tenant of a small piece of land with a homestead, who had no share in the common arable lands — worked two days a week in December, paid two hens at Martinmas, helped with the breeding. If the "help" were at Bristol or Gloucester or elsewhere, he was bound, on foot or on horseback, to carry the hens to her. He had to supervise her sheep at lambing time according to the "darning" of her shepherd. He was bound, when it was necessary, to drive live-stock to Bristol or Gloucester or elsewhere. For his occasional services he was quit of certain days of his week work.<sup>14</sup>

All the operators, of whatever tenure, paid at the pleasure of the abbey for dead wood, thorn, and ashle in Hordlebury — 4d. if a man had a horse, 1d. if he had not. The men from the eastern part of the curia paid *pro curia curia*<sup>15</sup> which they ought to have; 1d. if a man had an ox, one hen if he had not.<sup>16</sup> The jurors of December closed their report with an account of the development of land tenure in Avering. "At first, in Avering, there were two vigantes selling military services, afterward five *pro francis palleis* and afterward fourteen in the abbey's pleasure either for geldation or work."<sup>17</sup> There is an example here of the deterioration in tenure which Miss Wilson has traced on the Ramsey manors.

In Hordlebury, also, the tenants held either for money payments or labor services, at the pleasure of the abbey.

The typical cottolider of Hordlebury did much the same services

<sup>12</sup> Cf. Chetwode, *loc. cit.* 2 vigantes harvest-t help- and his wife & child.

<sup>13</sup> *Ibid.*, *loc. cit.*      <sup>14</sup> *Ibid.*, *loc. cit.*

<sup>15</sup> the "curia" made or kept upon arable? wood, harvest?      <sup>16</sup> *Ibid.*, *loc. cit.*

<sup>17</sup> *Ibid.*, *loc. cit.*, 440.

as the outstider of Arving. He worked two days a week and lodged with the brewing, but here he had the advantage over his neighbour of receiving, with his companions, one setier of beer. He drove livestock when ordered and carried beer. He helped at hatching time, guarded thieves, watched the church at night, and kept the wine with the wineherd.<sup>17</sup>

The typical vigner<sup>18</sup> of Hampton likewise closely resembled the vigner of Arving. Besides his agricultural labors which are identical with those enumerated for Arving, he was bound to buy a woman's of beer if "the lady should make a tavern"; in other words, brew. He was bound to provide vessels for the brewing and to make malt. His carting services are explicitly described. He was to find a horse once a year for carrying cheese and butter to Southampton, and in harvest time, he was to carry four wagon-loads to Eberthels and three beyond. Even if the vigner was excused from agricultural labors on the score of being a miller or a sheepherd or a wineherd, he must provide one horse yearly. "The lady may make one defense of pasturage, in addition to Dimes, against her men's beasts until All Saints' Day, provided she use neither Longspere nor Iselwals for this defense." Every tenant of working land had to harvest three bushels and his wife one, with the help of his men. The customary rents owed by the vigner of Hampton conform to type. From every house whose smoke issues, a hen at Christmas and five eggs at Easter are due. The vigner owed 1d. from every pig once a year old (since last Holy Cross Day) and 1 shd from every pig half a year old whether they pastured in the wood or not. He owed either 1d. of toll or one woman's of beer *de taverna*, that is, if he brewed. If he sold a horse within the tennement, he owed 2d. of toll and the purchaser 5d. If he sold an ox, he must pay 1d.

All tenants on Hampton, save the *franchised*, owed 1d. to St. Peter for their wives and if they had no wives 1 shd. "These Peter's pence the 'lady' collects and she pays to St. Peter 1s. from Hampton."

Under the heading *de pennis*, the vigner's obligation to tollage is treated. "Every man whose flock is not enclosed by

<sup>17</sup> *Chetwode his de vice, also his de vice.*

<sup>18</sup> *Ibid.*, *ibid.*, *ibid.*

Assessment Day shall pay a sheep with a lamb as a penalty.<sup>17</sup> Embodied with the tithing regulation is a statement difficult to interpret but interesting because of its reference to the manorial court. It manifests another marvelous instance of uniformity of custom, preserved in measure even perhaps from its introduction in *forchards de Kent*.<sup>18</sup> Just what the offense is of which the servile woman must excuse herself with five women before the bailiiff, or pay the heavy fine of 12s., it is hard to say.

The privileges of ploughmen and shepherds in Hampton are fully detailed.<sup>19</sup> There were ten ploughmen in Hampton, each with five acres. They ploughed for themselves Saturday. They received one sheaf from each wagon-load and one acre of domestic wheat. From Hock day to August, they had the milk of the sheep every Sunday morning save Whitunday. They had the third acre of the tithes and the third lamb. Their wives were to lead the sheep out to pasture and they were to mow with the shepherds and each was to work one land from Michaelmas up to the time at which sheep are led out to pasture.

There were two shepherds in Hampton, each with a virgate for which he was to keep the sheep all week long, including Saturday. Every Saturday, he was to have a jar in which cheese full of salt was pressed down. The sheep folded upon the shepherds' lands for twelve days at Christmas time. The shepherds had sheep milk the morning of Whitunday. They were quit of hockins but their sons and daughters owed one and their wives two. Each shepherd had one flock and one lamb a year.<sup>20</sup>

There was one cow herd who had half a virgate in return for which he kept watch over the cows and animals not used for work or milk.

The virgates in Pichey are described as *freewill*. They owed four days work a week from Michaelmas to St. Peter of Vincennes or August 1, and five days work in August, and tithing in addition. They were to plough as many acres as they had days. They had the best days for their own work.<sup>21</sup>

Three inquiries made on English manors in the second half of

<sup>17</sup> *Curfewy*, fol. 10r, 11.

<sup>18</sup> *Ibid.*, fol. 10r-11, also fol. 10r.

<sup>19</sup> *Ibid.*, fol. 10r, 10v.

<sup>20</sup> *Ibid.*, fol. 10v, 11v.

the twelfth century, the inquest of 1181 on the manors of St. Paul's;<sup>10</sup> the inquisition on the manors of Glastonbury Abbey of the year 1186;<sup>11</sup> and the extents of Ramsey Abbey in the generation after Henry I.<sup>12</sup> may be used to test the closeness to type of the contemporary inquests on La Trinité's English manors. Only a fragment of the inquisition of 1180 for St. Paul's remains. The so-called inquisition of 1180 which is preserved entire is probably earlier than 1181, though certainly later than 1179.<sup>13</sup> The fragmentary character of the one and the summary nature of the other prevent their forming a useful basis for comparison with La Trinité. The names of tenants and their services are not mentioned in the record made between 1179 and 1181. The facts noted are the number of hides in the manor, the amount and quality of land in demesne, the payments owed to king and lord, and, in some cases, the potential instruments of the manor, that is the ploughs needed to cultivate it and the number of animals for which there is pasture room. The right of *vestale*, a drinking feast at which the tenant must buy the lord's beer, is mentioned.<sup>14</sup> It appears also in the Glastonbury inquests and may be compared with the "lady's" brewing on Hampton when the tenants must buy her beer. A detail in the inquest of 1181 on the churches of St. Paul's<sup>15</sup> throws light on a point in the Hampton inquest. Peter's pence was collected and paid over to Rome by the dean of the place or by the priest or by the farmer of the manor. It thus becomes clear, since the collection of this due could vary so widely, why the jurors of Hampton took pains to state that it was the abbot who collected this due, probably through her farmer. The inquests on the manors of St. Paul's also gave the payments of each manor to the canon and the amount of total rent of each manor.

<sup>10</sup> *Extents of Saint Paul's of the Year 1181 or Register de Visitacion Maneriarum* see *Historical Documents*, ed. William Hall (1912, Camden Society), pp. 141-144, 146-148.

<sup>11</sup> *Extensio Decimarum et Solvendi Decimarum. An Inquisition of the Manors of Glastonbury taken of the Year 1186*, ed. John H. Ingram, London, 1908.

<sup>12</sup> *Cartularium Monasterii de Ramsey*, ed. W. H. Hall and R. A. Lysons (London, 1896, 98, 1901-1902), II, 302-304.

<sup>13</sup> *Introduction to Extents*, p. ii.

<sup>14</sup> *Extents*, pp. 142-143.

<sup>15</sup> *Ibid.*, pp. 149-151.

The Glastonbury inquest notes, at the start, the questions asked of the jurors by the inquisitors. The jurors were to tell how much land each man held, all his services, who held freely, how much and for what service and on what guarantee and at what time. They were to report if any land had been made free in the time of Henry the bishop or afterwards which ought to work, on what guarantee this was, and to what degree it was free. The inquisitors further wished to know if someone had been occupied or whether men outside the manor had been established in freedom or in villenage, and if the arrangements were useful to the lord as it stood or if it had been revoked.<sup>12</sup> This might well have been the programme both of the contents of Ramsey and of the inquests of La Trinité.

The Glastonbury inquest opens with an account of the funds received by the abbot and of the privileges of the abbot and of the servants of the abbey.<sup>13</sup> Then each manor is treated in turn. For each are recorded the names of the jurors, the names of the tenants, their holdings and their services, and the instrumentation. The agricultural services owed by those holding freely and by the villeins are almost identical in quantity and quality with those which we have seen for the same classes on the manors of La Trinité. The chief exception is work on the vineyards owned by Glastonbury: digging and gathering the vineage. A difference is also marked in the assignment of agricultural work on the manors of both abbeys. The days of the week on which certain work is to be done are usually specified for the tenants of Glastonbury but never for the tenants of La Trinité. Also, whereas the villeins of La Trinité commonly works every day in the week except Saturday, the villeins of Glastonbury works three days a week from 20 September to 1 August and throughout August and September only, works every day in the week. On the manors of La Trinité, the villeins had one least day which occurred for his own work; on the manors of Glastonbury, he had only every alternate least day for himself.

The customary rents are practically the same in both sets of inquests, the chief exception being the payment of honey which

<sup>12</sup> Liber R. de Binton, p. 21.

<sup>13</sup> Ibid., pp. 1-15.

is very common on the Glastonbury manors and without example on the manors of La Trinité. Church fest, a rent paid to the lord of the manor, and hearth duty, identified by Miss Nelson with Peter's penny,<sup>10</sup> are common on the Glastonbury manors. A few tenants of Glastonbury, as well as of La Trinité, held for a plough. The service of guarding prisoners, with which we may compare the Hampton obligation to guard thieves, is of frequent occurrence for Glastonbury. The services by which smiths and carpenters held of both abbeys were little. The business of the smiths of Avesing, however, are far heavier than those of any smiths on the Glastonbury manors. The duties of the Glastonbury smiths are limited to making plough shares and sharing horses. The Glastonbury inquest contains no account of the privileges of ploughmen and shepherds, as fully described in the inquests of La Trinité. A parson's privileges, which included one of those enjoyed by a parson of Tithhead, are, however, detailed. The Glastonbury parson had eight oxen in demesne pasture, four cows, one bull, and thirteen ewes free of passage.<sup>11</sup> The Tithhead parson, it will be remembered, paid for one hundred sheep and had one hundred more and five wethers quit.<sup>12</sup> Fodrage from Hock-day to Michaelmas is only briefly mentioned in the Glastonbury inquest<sup>13</sup> in contrast to the full details for Hampton manor. Toll for the sale of animals on the manor is described by the Glastonbury inquest in the same terms as those of the Hampton inquest.<sup>14</sup> Attendance at the shire and hundred court is a service of the Glastonbury tenants which is never recorded in the inquests of La Trinité.

The twelfth century extents of Ramsey manors are similar to the accounts of La Trinité and Glastonbury. For each manor, the tithe is stated and a list of free tenants and tenants holding by money rent, with their services and payments, is drawn up. The labor services of the typical vigner and culter are described,<sup>15</sup> more briefly than in the inquests on

<sup>10</sup> N. Nelson, *Feudal Society* (Oxford, 1934) Oxford Studies in Social and Legal History, vol. II, p. 305.

<sup>11</sup> *John R. de Ballon*, p. 101.

<sup>12</sup> *Glastonbury*, fol. 41.

<sup>13</sup> *John R. de Ballon*, p. 102.

<sup>14</sup> *Ibid.*, op. 74, 76.

<sup>15</sup> Nelson, *Feudal Conditions on the Manors of Ramsey Abbey* (Philadelphia, 1935), p. 44.



Hampton and Avering. Both works are almost entirely undeveloped.<sup>10</sup> The amount of land held freely is considerable in comparison with that held by labor services. For some manors, the customary is described.

The chief likeness in all three reports is the account taken, by each, of damages to property in Stephen's time. The farms of more than one of the manors of St. Paul's had decreased since the reign of Henry I *propter racionem domi et maris qui debet tempore parare*.<sup>11</sup> Glanbeury notes the destruction of a mill *tempore Stephani regis*<sup>12</sup> and a perpetration made in the reign of the same king.<sup>13</sup> The Ramsey extents contain long lists of unlawful occupations of demesne<sup>14</sup> and of perpetration.<sup>15</sup> We have seen that the inquiries of Foliot and Horwood deal almost exclusively with encroachments on demesne.

In summing up the resemblances or differences in these twelfth-century inquiries, one is met by the difficulty that no two of the inquiries made for La Trinité conform to the same type. Foliot and Horwood are concerned with invasions upon the abbey's rights. Hampton and Avering are reported upon with a fulness which is characteristic of thirteenth-century inquiries. Only the inquiry on Tibhead seems normal. Since this inquiry is exactly comparable to the Glanbeury inquiries and since the information gathered for St. Paul's, Glanbeury, Ramsey, and La Trinité is of approximately the same character and extent, it seems safe to say that, in this period, each abbey wanted to know the same facts about its possessions and that each abbey took the same steps to ascertain these facts.

One feature which these reports have in common explains why, in the thirteenth century, the process had to be repeated. The services on the majority of the manors are largely lost, and the accounts were, therefore, found to be too indefinite. In all of them occur phrases like "whatever he is bid" or "whatever the lord commanded" or "at the abbey's pleasure" or "without measure" or "a day's work as the reeve shall assign it." They were phrases<sup>16</sup> to fill the case when work was done

<sup>10</sup> *Notulae, Genealogia-Traditiones*, p. 100.

<sup>11</sup> *Extents*, p. 102.

<sup>12</sup> *Lib. H. de Salmo*, p. 105.

<sup>13</sup> *Ibid.*, p. 105.

<sup>14</sup> *Ext. Lib. Ram.*, p. 103.

<sup>15</sup> *Ibid.*, p. 103.

by the day and not by a set quantity" and did not indicate arbitrary tyranny on the lord's part. These vague descriptions occur only in the older surveys because "manorial customs were developing from individual rules to the uniform settlement of details."<sup>10</sup> Miss Nelson has shown that, in the case of Ramsey at least, the new extents of the thirteenth century mark, in the increase upon earlier obligations visible in the exact description of the services of each villain, "a step forward upon the lord's part dictated by his desire to secure what he had already gained."<sup>11</sup>

Thus, the extents of the first half of the twelfth century became insufficient by reason of the changes wrought in the value of property by Stephen's reign; the extents of the second half of the century became insufficient by reason of the increase in the lord's demands upon his tenants.

No summary of the value of La Trinité's English manors as defined in these extents is possible. It is clear, from directions as to tithing services, that the manors of La Trinité sent tithes as *fructus* to the abbey in Caen. This practice was common to manors of contemporary English abbey: "In most great groups of manors belonging to churches, a highly-elaborated system is found by which certain manors sent up in regular rotation man, hives, thorns, even seven times a year, a specified supply of food."<sup>12</sup> We know, from the same budget, that La Trinité depended for its regular food supply, not upon its English manors, but upon its Norman manors whence perishable materials could be cheaply and speedily brought. We hear, also, in the same budget, of cheese and bacon and wood from England, as we heard of a tenant in Hampton who was bound to transport cheese and bacon. But no figures of the amount of food stuffs thus exported to France are available. The figures of Eudes Rigaud a half century later, are our only source of information on this point. He put the income of La Trinité at 2500 *livres* *tournois* and added 300 *livres* from England.<sup>13</sup>

Jean Brunard.

<sup>10</sup> *Chapman, Villains*, pp. 209-211.

<sup>11</sup> Nelson, *Manorial Customs*, p. 22.

<sup>12</sup> Nelson, *Manorial Customs*, p. 22.

<sup>13</sup> *Eudes Rigaud, Description des églises et des paroisses de Normandie*, ed. T. Barthe (Paris, 1882), p. 22.

## THE CLAIM OF KING HENRY I TO BE CALLED LEARNED

KING HENRY I, called himself, has enjoyed as long and persistent a reputation for extraordinary learning that it seems worth while to trace its history in order to be in a position to evaluate more justly the meagre evidence which exists concerning his education and learned accomplishments. The enthusiastic exaggerations of such writers as Fulgure<sup>1</sup> and Freeman<sup>2</sup> are no longer taken seriously, but such careful scholars as G. B. Adams<sup>3</sup> and H. W. C. Davis<sup>4</sup> have not hesitated to credit him with an education which would have been quite extraordinary among persons of the age in which he lived. The former speaks of his love of books, the habit of the habitué of an educated man which he possessed, and both credit him with a good knowledge of Latin and attach some importance to the view that he knew English.

Among the chroniclers who wrote during Henry's lifetime, only two make any mention of his learning, viz. Ordericus Vitalis and William of Malmesbury; and the importance of their accounts, which are not long, seems to require full quotation.

Ordericus Vitalis speaks of Henry's learning in three separate passages as follows:

(a) Hoc [Henricus], dum doctus esset atq[ue]q[ue], litterarum scientiam dilexit, et quasi utriusq[ue] parvula stulticia militis apertis foribus ostendit.<sup>5</sup>

(b) Hoc [Henricus] in industria et solis litterarum a parentibus traditus est, et tam naturalis quam christiani cultus in nobilitate inditus est. Hunc Lancastriens, Eboracensis episcopus, dum breviter vellet ex-

<sup>1</sup> History of Normandy and England (London, 1808-10), iv, 332-337.

<sup>2</sup> History of the Norman Conquest (2nd ed. Oxford, 1872-75), iv, 282, 283-284.

<sup>3</sup> History of England from the Norman Conquest to the Death of John (1066-1216) (London, etc., 1893), i, 133.

<sup>4</sup> England under the Normans and Angevins (1066-1216) (London, 1893), pp. 45, 104; Feudalism in Britain; Oxford, Clarendon, 1907-13, vol. 100.

<sup>5</sup> Opera Historica, ed. Auguste Le Prévost (Paris, 1822-23), ii, 122.



In which, if one accept the views recently expressed by the Rev. Claude Jackson, he may well have written some years before 1128,<sup>12</sup> and he afterwards expanded this surprising statement with the explanation that Henry's knowledge of law had been secretly acquired and that the Consensus had destined him for clerical office (officium clericale) because he was unworthy, or unfit for war (indignus).<sup>13</sup> But whether Matthew Paris derived these ideas from his own imagination or from some popular tradition or from some written source, it seems at present impossible to say. Henry is twice referred to as founded in "clergy" (in clerico fundit) by the anonymous author of the so-called continuation of Wace's *Brut*, which, to judge from internal evidence, was composed in the west of England, perhaps at Tewkesbury, at a period almost exactly contemporary with that in which Matthew Paris wrote.<sup>14</sup> Again, about the year 1168, his "clergy" was praised by Robert of Gloucester in the following verse:

For that he sought, was to live in father-like love,  
That he was as to him himself, and others too,  
So that no craft abroad, tho' he king was,  
His noble & private life, nor soldiers or other men.

Even before this the term, "dark," (colored) had been applied

<sup>21</sup> *The Waverley Chronicle and the Early School* of H. Adams (London, 1888), p. 76. For the early history and interpretation of the prophetic of English as August Tylor, *The Political Prophecy in England* (New York, 1902), especially pp. 17-18, 100-101, 107-108.

<sup>22</sup> "Word groups designate elements, signs or phenomena which possess pairs of the two kinds of two values and which cannot be isolated." ("Théorie des Mots", 1936)

<sup>10</sup> "Theology, philosophy and science at present, parts are lacking, only intellect, which should be added, it is as if we were to question people, if we had given them an eye." *Wahne Lubiano, ed. Paulo Sklar: Santa Cruz, 1982-83, t. 38.*

<sup>10</sup>By contrast, there is little or no support for the proposition that the

Reyes de Wenden 18, 1980, the production of *Matthiola strabo* at the following time and in order to see about their development of breeding.

[illegible]

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gains a reputation as an author. Indeed, discovering a copy of the *Leges Henrici Primi* in St. Augustine's, Canterbury, described it in his *Commentaries* as "liber . . . ex publicis regali decretis ab eo illustratus et editis compendit; unde et leges etiam non Henricianae, sicut ab auctore sumptae, deservit."<sup>17</sup> and this statement was faithfully copied by Bale and Pits and Tanner, who added that Henry was also the author of letters to Anselm.<sup>18</sup> So matters stood until the second quarter of the nineteenth century when the Abbé de La Rue added further to Henry's literary fame by listing him among the Anglo-Norman translators:<sup>19</sup> In the epilogue to her collection of *Anglo-Norman* *Marie de France* speaks as follows:

Rape apelli un, un, et breu,  
Et translate et lat. enivre,  
De Grece en Latin. In terna.  
Et cele Alven, li nest France,  
Le translate puis en Anglois,  
Et par lui vint en Franceis,  
Et vint del leval, proprement.<sup>20</sup>

Reading his argument on inferior manuscripts which contain the reading *Henric* in place of *Alven*, in the fourth verse above quoted, La Rue declared Henry I to have been the author of the English version of the fables which Marie de France used.<sup>21</sup> Further, La Rue asserted that Henry was the author of a short poem in French, entitled *Yvain* or *Le Cheval d'Acelys*, which dealt with the rules of conduct in polite society. La Rue acknowledged that this poem was nowhere directly attributed to

*Commentarii de scriptoribus Britannicis*, ed. A. Hall (Oxford, 1906), pp. 171-172 (idem, *Colloquia*, ed. Thomas Horne (London, 1714), I, 215; idem, *Bale* (L, 1582), *Scriptores Britannici* (British Museum), . . . (London, 1609), p. 107; *Adm. Hist.* (L, 1582), p. 108; *Anglo-Norman* (Anglo-Norman Club, 1889), p. 107; *Adm. Hist.* (L, 1582), p. 108; *Anglo-Norman* (Anglo-Norman Club, 1889), p. 108; Thomas Tanner (L, 1704), *Scriptores Britannici* (British Museum, 1704), p. 104 (Tanner also cites the *Book of Wood*, *History of Anglo-Norman* (Anglo-Norman Club, 1889), I, 104, as indicating that Henry was identical with *Henricus* (L, 1582), *Adm. Hist.* (L, 1582), p. 108).

<sup>17</sup> *Commentarii de scriptoribus Britannicis*, p. 171.

<sup>18</sup> *Bale*, op. cit., p. 17; *Idem*, op. cit., p. 104; Tanner, op. cit., p. 104.

<sup>19</sup> *Marie de France* (Paris, 1882), I, 13-14.

<sup>20</sup> *Les Fables de Marie de France*, ed. Karl Bartsch (Halle, 1882), pp. 107-108, lines 13-14.

<sup>21</sup> *Op. cit.*, pp. 104-107.

Henry I; but he knew of a Latin poem, entitled *Urbano*, whose author appeared to him as "old king Henry" (see what *Revue* said) as having provided him upon the same theme, and he concluded that the king in question was Henry I.<sup>27</sup> Thomas Wright soon protested against these perfectly solitary attributions, and he did not hesitate to strip Henry I of every claim to authorship.<sup>28</sup> Nevertheless, Thomas Duffus Hardy listed him among authors in his *Descriptive Catalogue* published in 1861;<sup>29</sup> and Polgrave, writing at almost the same time, ranked him as a man of letters and cultivation beside Leo X and Francis I, accepted the attributions of La Rue, and appears to have had no doubt that Henry translated Ansep's fables from Greek into Latin, as well as from Latin into English.<sup>30</sup> and Freeman, in 1878, declared that he "was taught all the learning of the age," that "his proficiency became wonderful among contemporary princes," and he accepted, though with some misgivings, Polgrave's view that Henry translated Ansep's fables from Greek into Latin and thence into English.<sup>31</sup> Since the view of Thomas Wright that Henry has no claim to be ranked as an author has perhaps hardly yet entirely prevailed, as it should have done, it may now be added as a known fact that the English version of *Ansep* which Marie de France used was by neither Alfred nor Henry I, though it was current under Alfred's name in the twelfth century.<sup>32</sup> And as for *Le Dit* d'*Urbain*, it may be noted that the Latin *Urbano*, on which La Rue based his rash conclusion, was not a poem on good manners at all, but a poetic treatise on hygiene, a very early version, in fact, of the famous *Doctrina Salutarium* or *Regimen Sanitatis Salutarium*, apparently dating from about 1180; and the

<sup>27</sup> *Ibid.* cit., pp. 77-82.

<sup>28</sup> *Biographia Literaria* (Cambridge, Anglo-Norman Edition, London, 1885), pp. 40-45.

<sup>29</sup> *Descriptive Catalogue of Materials Relating to History of Great Britain and Ireland* (London, 1861-72), II, 124-125.

<sup>30</sup> *History of Normandy and England*, II, 486-487.

<sup>31</sup> *Biographia Literaria* (Cambridge, 1885), pp. 40-45. "The learned education of Henry I was not, and it was probably never gone so far as to take in a knowledge of Greek."

<sup>32</sup> *Wörterb. zu den Fabeln der Marie de France*, Introduction, pp. clix-cxlii. For the more recent literature dealing with Marie de France, see brief bibliography, Marie de France, II, in this survey (Bibliography, 1988) and *Wörterb. zu den Fabeln der Marie de France*, Introduction (Jahrb., 1988), and the notes which these contain (III).



any other chronicler to whom it refers seems to have been King Henry II.<sup>12</sup> There are, therefore, no works in either Latin, English, or French which can be attributed to Henry I, and his claim to authorship must definitely be abandoned.

The last attempt to add to the fame of Henry I for learning was made by Mr. Freeman, who, in his *History of William Rufus* (1882),<sup>13</sup> undertook to prove from documentary evidence that Henry "spoke English familiarly." This evidence, which Freeman had not actually seen, consists of a narrative in the cartulary of Colchester Abbey, which introduces a charter purporting to be a confirmation by Henry I in 1120 of the foundation of the abbey by Eudo the English and Bohemia his wife. According to this narrative, Abbot Gilbert, upon assuming office, found that the fundamental charters were missing, and he accordingly proceeded to have others prepared in their place ("In primordiale Regis cum ecclesie fundamentum requiescent et nulla valens momenti reperiuntur scripta paracula deservit"). Having held an inquiry, he had a foundation charter drawn up and sent it over sea by Osmond the prior, to Eudo and Bohemia, the pious founders, in order that they might obtain its confirmation from King Henry who was then in

<sup>12</sup> The MS. B.N. lat. no. 274, in which the text referred to has been fully and carefully collated by E. Faur, in *Revue*, vol. 100 (1891). The Latin version is supposed to have been composed by David Church (Abbot of the same name and by him to have ruled the same during years of the reign of Henry II. *Index Britanniae Scriptorum*, ed. Faur and Bédier (Oxford, 1908), pp. 45-46) *Scriptores Britannici (Monachi Britannici . . .)* (London, 2, 1891). In the latest work Bédier cites "Abbatibus monachis . . . in hoc scripto de informatione, sed in the letter to prove in the old script" which has just been discovered in another register." David Church appears not to be a familiar name. There are references to him by Bde. Thaur, Fabricius, Leves, Wright, and Charleval, *Episcopus Christianus, die 10. Augusti* (Oxford, 1894-95), vol. 1, 112, but these really add nothing to the statement of Bde, although Fabricius and Wright also mention works as formerly assigned to him. F. Meyer (Germania, vol. 10, 1876) shows that the name attributed to him by Fabricius is not his. Faur (ibid., vol. 100, 2, 4) shows that the name of the Abbot indicated from Faur, who in turn repeats it from Bde, *Scriptores Britannici* (MS. Collège St. Pierre) and Fabricius, in *Revue* (Revue), *Scriptores Britannici* (MS. Collège St. Pierre) (Oxford, 1891), 1, 2, 112, no. 274 (this is no. 27 in F. A. A. *Index*, *Scriptores Britannici* in the *Index* of *Scriptores Britannici*, Berlin, Dublin and London, 1900). William Bde (*The Biography and Autobiography of William Rufus*, 2nd edition (London, 1882), p. 100) mentions the fact authorship of some Latin prose as well as of some as an introduction to the *Index* of *Scriptores Britannici* in some versions, and one collected by him in *Revue* (Paris).

<sup>13</sup> Vol. 1, passim, pp. vi-viii.

Normandy. When they brought it to the king at Rouen, he ordered it to be read in his presence by his clerk, John of Bayeux, who, when he came to the customs which were written in English (*consuetudines Anglie scriptas*), stopped short, alleging that he did not understand. Then the king, for he was very learned (*erat nimis optime literatus*), took the charter and read it and explained it to those who were present. And then after he had deliberated in silence for a long time, he confirmed the charter, though somewhat reluctantly, for the sake of his love of God and of Fulk. In the charter of confirmation which follows this narrative, the English customs on which the royal clerk stuck are set down as follows: "manleayre, bockleayre, mikemalge, swevings, bostrings, fyrthakene, Symmesdremle, wengedweol, stiknap, forling, byrlong, fyrdwite, spildwite, wancwite, lewspite, hamwite, hostall, lufungethel, mela, melu, toll of team."<sup>18</sup> This evidence was freely discussed on several occasions by Mr. Round, though without the rigorous criticism which one was accustomed to expect from him. At first he was inclined to treat the story as true and to regard the charter as genuine, and he comforted himself with arguing, against Mr. Freeman, that the charter did not contain enough English to prove Henry's familiar knowledge of that language.<sup>19</sup> But later, after the Colchester cartulary had been printed, he modified his view and declared the charter to be not genuine "in the inflated form in which it appears in the cartulary," and he argued strongly against the truth of the pretty story which introduces it, on the ground that there is good reason to believe that Fulk could not have been present with the king at Rouen as the narrative alleges.<sup>20</sup> The matter was not really settled, however, until the publication by the Rev. J. Armitage Robinson, in 1912, of a notable appendix on the early charters of Colchester Abbey in his *Colbert Colpin, Abbot of Westminster*.

<sup>18</sup> *Consuetudin Henrici Secundi Anglorum Regis et Henrici, et R. A. Marescalci*, 1887, i, 4-5.

<sup>19</sup> "Henry knew English better," in *Armitage*, *loc. cit.* 106. The great merit of this article was that, for the first time, it made available in print the texts in question. Round obtained them, however, not from the cartulary, but from later transcripts of it, for which he gave no exact citations.

<sup>20</sup> *History of Westminster Abbey*, etc., 1912, ii, 405: "The Early Charters of St. John's Abbey, Colchester," in *J.H.S.*, vii, 292-293.

also. Here it was shown that the whole lot of early Calchester charters, as preserved in the cartulary, consisted of veritable forgeries. Henry's pretended charter of 1119 was very largely based on the foundation charter which Round assigned to 1184, and believed to be genuine, but which, as Dr. Robinson shows, was almost certainly a forgery. Whether forged or genuine, its very existence makes pointless the narrative which introduces the pretended charter of 1118. Moreover, the English customs, together with a long list of other privileges which are set down so carefully in the latter, are all copied from a Westminster source of later date, the so-called Third Charter of Edward the Confessor, itself a notorious forgery.<sup>10</sup> It is, therefore, certain beyond the shadow of a doubt that no charter containing the English words quoted was read and expounded by the king before his council at Basing in 1135.<sup>11</sup>

The so-called proof of Henry's knowledge of English, therefore, falls to the ground, and there remains no evidence concerning his education and learning beyond the statements of Odo of St. Giles and William of Malmesbury, from which this investigation set out. What value, then, is to be attached to these statements? Unfortunately, neither of these writers can be regarded as an entirely satisfactory authority for the education and learning of Henry I. Both wrote of him with an extremely

<sup>10</sup> F. Augustus Robinson, *Charters of Henry, Duke of Westminster* (Cambridge, 1901), pp. 105-106; cf. John Hale, *The History of Westminster Abbey*, ed. F. A. Robinson (Cambridge, 1908), pp. 10-11. Round apparently accepted Robinson's conclusions of "The English of English Rights," in *P.R.S.*, *xxvii*, 19, 20. It would be of much interest to determine if possible, the date of the introduction of the pretended charter if it derived the narrative which precedes it. Round (loc. cit., p. 10) supposed that Robinson (who examined the original from the Archbishop's library, but Robinson does not say this) had dated the Third Charter of Edward the Confessor, which the Calchester forger used, but not from Robinson's thought incorrect but false knowledge; it surely derives from a letter of Paschal II to Henry I. The present study of Henry's known learning would seem to indicate that a forger would hardly have made a forgery of his resolution before the time of Matthew Paris.

<sup>11</sup> Another myth concerning Henry's education, which seems to have been started by the Abbé de La Rue (Cited by Mr. Jordan, p. 88), is that he was a pupil of Gualtero. This was repeated by Wright (*Eng. Arch. Soc.*, *English Norman Period*, p. 88), and still further expounded by Pollock (*History of Germany and England*, ii, 183, in 1878), who made him a pupil both of Laubius and "Master Richard." Is this given to schoolmaster? It is possible that he has confused Henry with William Rufus in the statement of William of Malmesbury (above chapter 1, 108) that Laubius brought William to and baptised him ("was enriched of millions from") *in* of *Act. Vital.*, *West. Sax.*, ii, 107.

any admiration which may easily have warped their judgment, and, when they wrote, though Henry was still living, the period of his education was long since passed. Odoarius Vitellus was born in 1073, and wrote the passages quoted at various times between 1140 and 1180.<sup>17</sup> William of Malmesbury was born, if we accept the conjecture of Stubbs, about 1093, that is to say, when Henry was a grown man of twenty-seven, and he appears to have written the passage quoted about 1155.<sup>18</sup> Both writers must have depended on hearsay or on information from known facts concerning Henry's maturity.

The quotation from William of Malmesbury is, upon analysis, somewhat disappointing. Its style is highly artificial and distorted. Even the most extravagant admirers have drawn back at the comparison of Henry with the ideal philosopher-king of Plato. No one has ever supposed that William the Conqueror was a literary monarch, and, this being so, it is merely safe to say that Henry was accustomed to tell his father that an English king was a crowned man. It is to be noted further that, in spite of the rather pompous references to *scholaria litterae* and *verba litterarum*, William of Malmesbury acknowledges that Henry's education was crassly acquired (*crasse acie doctus*) and that his mastery of letters was not such that he could read aloud, or in the presence of others, without difficulty and embarrassment (*non multum potius legere*).<sup>19</sup> Finally, William of Malmesbury gives as the chief reason for Henry's having received an extraordinary education, the fact that he alone among the Conqueror's sons was regally born and designed from the beginning for the kingship. But this argument, whether appearing in William of Malmesbury or elsewhere, was almost certainly devised and projected into the past after Henry had actually attained the kingship. There is no good reason to suppose that any special importance was attached to the royal birth of Henry by his parents or by any one else during the period when his education was being acquired.<sup>20</sup>

<sup>17</sup> *On the Introduction, in the First Part of the* 2, pp. xvi, xxi, xxi-xxii; cf. *From the Old Church Slavonic* (New York, 1898), pp. 101, 117-118.

<sup>18</sup> *Introduction, in the* *Scripta* 1, pp. vii-viii, xxi.

<sup>19</sup> Cf. *in* *Patristic*, in the *Text*, *Vol. III*, in, 104, note 2.

<sup>20</sup> But, however, the contrary view expressed by Freeman (*Norman Conquest*, in,

The statements of Odoericus Vitellii are much less sweeping than those of William of Malmsbury. Taken together they seem to mean little more than that Henry's parents saw to it that he received some serious education during the period of his childhood. One can only wonder what Odoericus meant by the pompous statement that Henry was nobly instructed with both natural and doctrinal sciences ("tam naturali quam doctrinali scientia nobiliter instructus"). Certainly it has all the flavor of a panegyric. Far more convincing is the simple statement that the king, being illiterate, read a letter. Yet, even here, an examination of the context is not very reassuring. The letter in question is said to have been from Bertranda de Montfort, the notorious second wife of Philip I of France, though purporting to be from King Philip himself and begging the royal aid; and it called upon Henry, who was then entertaining Louis the king designate of France at his court, to arrest him and place him in life-long confinement.<sup>2</sup> The tale, which is mentioned by no other writer, is one of the most fantastic to be met with in all the thirteen books of Odoericus Vitellii, and to the present writer it seems evidently legendary. Henry I may have read other letters, but that he ever read one purporting to come from King Philip and urging him to arrest and imprison Philip's own son, the king designate of France, while on a state visit to the English court, seems hardly to be believed.<sup>3</sup>

Taken together the independent testimony of William of Malmsbury and Odoericus Vitellii must be regarded as proof that Henry's education was not neglected by his parents. This is what should be expected under the circumstances. It is known that William and Matilda took some pains about the education of their eldest son, Robert Curthose, the names of

229-230. All medieval arguments in favor of Henry's right to the bishopric on the ground of his royal or English birth date from a later period, after he had successfully resisted the throne. Robert Curthose was symbolically designated as his and crowned by all his father's feudatories (J. W. Gillingham, *Robert Curthose, Duke of Normandy 1035-1106*, Basingstoke, Mass., 1955), pp. 22, 23, 86. When the Compromise was led to change location, dissensions and wars of the nobility and proved unpopularity of Robert, he supported William Rufus and Henry for the English throne.

<sup>2</sup> Odo. Vitell., *Hist. Angl.*, iv, 133-134.

<sup>3</sup> However, the mother-in-law of Philip I attempted to take the tale seriously: *Anglais Fleurs, les Filles de Châtillon IV, ex-le France (Paris, 1934)*, pp. 32-33.

whose names appear in charters,<sup>4</sup> and Landrum is said by William of Malmesbury to have brought up (nurtured) William Rufus.<sup>5</sup> It is also known that Cecilia, the eldest daughter of William and Matilda, was instructed in grammar and dialectic by the Flemish school-master Arnulf of Chocques, who was later to rise to fame as patriarch of Jerusalem.<sup>6</sup> It is therefore clear that the value of education was fully appreciated in the Conqueror's family; and it cannot be doubted that Henry had his opportunity to learn Latin, and that he did acquire a considerable, though by no means a complete, mastery of the language.<sup>7</sup> But it is equally certain that his great fame as a learned king is the product of a later age, not of the age in which he lived.

It is not possible to say with any accuracy where Henry received his education, such as it was. "He, no doubt, was educated on the continent," says Davis;<sup>8</sup> but this is pure conjecture. According to the *Brève Archaie*, which appears to have been written about 1185, and is on bad authority, he was brought up (nurtured) in England;<sup>9</sup> but it would be unwise to attach great importance to this statement, since it is used to rebuke the specious argument that Henry was entitled to the throne because of his royal birth.

CHARLES W. DAVIS

<sup>4</sup> Davis, *Robert Curthose*, p. 1.

<sup>5</sup> *Gloucester*, ii, 100.

<sup>6</sup> Davis, *Robert Curthose*, p. 103.

<sup>7</sup> William Hallie long ago remarked, with his usual shrewdness, that Henry's "distant responsibility of a very elementary sort." *Norman Conquest in the Light of Medieval and Modern History* (London, 1895), p. 116.

<sup>8</sup> *England under the Normans and Angevins*, p. 105. The anonymous continuation of Davis's book, published by Frederick Michel in 1905 (*Continuation Anglo-Normande*, i, 85) repeats this line as it is found in Normandy, but this has none of its value.

<sup>9</sup> "... *nurturipe in Angli, quod modo regem nostrum in regni et regni et nostrum in Angli habere nutritur.*" *Brève Archaie*, in *Continuation Anglo-Normande* (Frederick Michel, Paris, 1905), ii, 4. A. G. Coles (London, 1905), p. 10. This statement seems to have been hastily concluded.

## THE LEGAL SIGNIFICANCE OF THE STATUTE OF PRÆMUNIRE OF 1353

In the autumn of 1353 the Great Council made a decree about the infringement of the jurisdiction of royal courts. That decree has come to be known as "The First Statute of Præmunire."<sup>1</sup> It declared that any subject of the king of England who does another outside the realm in a plea, whose judgment pertained to the king, or who sought to nullify a judgment of a royal court by an appeal elsewhere (ex maki court), should be imprisoned by two months to appear before a royal court. On contemporary chronicles it made no deep impression; none of those whose work is now in print makes mention of its promulgation. But time has lent a perspective in which the Statute of Præmunire has seemed strikingly significant. Modern writers have usually placed it in a political setting as an attack on the jurisdiction claimed by the pope.<sup>2</sup> The impression that the attack began with the statute seems to be widespread.<sup>3</sup> In such a setting it seems a great landmark in the relations of England and the papacy. It is sometimes viewed as an expression of English nationalism against a French pope in the control of a hostile king.<sup>4</sup> Against these views stands the opinion of Professor Pollard,<sup>5</sup> who has vigorously denied its nationalism and has as-

<sup>1</sup> *The Statute of the Realm*, ed. Harold Gress, (1909-1911), I, 330. The preamble states that it was made by the Great Council meeting in September. However the petition of the Commons about appeals outside the realm or elsewhere was presented on 7 October. Robert Parsonage, ed. of *Statutes of the Realm in Parliament*, ed. Harold Gress, n.d., I, 330-331.

<sup>2</sup> H. Mayhew, *The Constitutional Struggle and Constitution of the Church of England* (London, 1886), p. 10; E. F. Tuck, *The History of England from the death of Henry III to the Death of Edward III* (London, 1895), pp. 377-378; F. W. Bateson, *The Charters of Liberties* (Oxford, 1928), I, 330; H. Mayhew, *See: Papal Jurisdiction* (1885-1890) (London, 1890), pp. 104-105; E. H. Carr, *England in its later Middle Ages* (London, 1928), pp. 426-428; W. A. Riggall, *A History of England from London*, 1892, I, 426-427.

<sup>3</sup> H. T. Whaley, "The Great Statute of Præmunire," *Q. R. R.*, 1901, 150, 102-103; T. F. Tuck, *The History of the House of Edward I in English History* (Manchester, 1914), I, 334.

<sup>4</sup> Carr, *op. cit.*, pp. 426-428; Riggall, *op. cit.*, I, 427.

<sup>5</sup> A. E. Pollard, *The Evolution of Parliament* (2nd ed. London, 1909), pp. 298, 299.

asserted that the statutes of praemunire and praemunire were directed as much against the church courts in England as against the Court of Rome. It is well recognised that the actions which the statute comprised were restricted to those of which the king claimed cognisance. After it, as before it, many matters could be legally impleaded at the Court of Rome or in other ecclesiastical courts. For the actions which it comprised, it has been supposed to have declared the penalties of livery and outlawry.<sup>1</sup> Such are in general the views of modern writers.

The historian who sets out to demolish these views must indeed tread warily. Remodelling rather than demolition is usually a sounder procedure. Of the view that the statute of 1533 was directed in part against the ecclesiastical courts in England, the writer will express no definite opinion in this essay.<sup>2</sup> Here appeals to the Court of Rome are the theme. The opposition to such appeals exposed itself in parliament on several occasions in the decade prior to 1533. That opposition ran concurrently with the opposition to papal provisions.<sup>3</sup> It had in all probability political significance. Without, therefore, denying political significance to the Statute of Praemunire, the present essay seeks to readjust the perspective in which the statute has been viewed. It seeks to revise that perspective by directing attention to the legal significance of the statute.

Two themes will be developed. First, the impression that the statute of 1533 began the attack on the jurisdiction of the papacy is erroneous. The appeals at which the statute was

<sup>1</sup> Wilson-Fleisher, *The Constitutional History of England* (Oxford, 1891), II, 489; Todd, *Hist. of England 1529-1534*, p. 155; Ramsey, *op. cit.*, I, 186. Cf. Mahoney, *op. cit.*, p. 82; Todd, *ib. id.*, p. 182.

<sup>2</sup> The writer is unable to give details, which many of the applications of the statute against appeals to the papacy expressly may be cited. In the fifteenth century such cases may in all probability be found though, *ib. id.*, pp. 407-408 ff. 78 (Maitland, *History from John to the Death of Richard II*) (London, 1897), p. 78. In the decade subsequent to 1533 the writer has found no such cases. Todd's thorough search is made, judgment must be suspended. It may be somewhat curious that the second clause of this essay would be criticised by the supporters of Professor Fleisher's view.

<sup>3</sup> W. W. Capes, *History of the English Church in the Praemunire and Provisions Periods* (London, 1898), pp. 52 ff.; Todd, *op. cit.*, II, 435-437, II, 487-488; G. Mitton, *La relation des légations antipapales aux six pages d'appeals* (Paris, 1882), pp. 123 ff.



almost had been regularly prohibited for half a century. Against the papal court it asserted its own claims. Second, the statute did not declare penalties against appellants who were convicted; it declared penalties against those who failed to appear on summons. It dealt with summons process and declared penalties for default. It was aimed especially at those who could not be attached or arrested. In short it was aimed particularly at fugitives from justice. From these themes it will appear that the political significance of the statute of 1355 is overshadowed by its legal significance.

In developing these themes the writer has made use of information contained in printed sources and in the unprinted Rolls of the King's Bench. In the former a judgment rendered in the Common Bench in 1346 has proved particularly important. From the latter has been gathered a multitude of cases. At the end of each of the King's Bench Rolls in the reigns of Edward II and Edward III is a series of memoranda bearing the inscription *Res*. These memoranda have proved a fruitful source.

One method of showing that appeals to the papal court were prohibited during the first half of the fourteenth century is the method of collecting actual cases of prohibited appeals. It would be a tedious and probably impossible task to recover all such cases. However a good start may be made with the aid of the Patent, Close, and King's Bench Rolls. Largely from these sources the writer has gathered 118 pertinent cases for the period between 1307 and 1355.<sup>1</sup> The number might be materially increased by a complete search of the King's Bench Rolls.<sup>2</sup> From the collected cases it is amply clear that the great bone of contention between the papacy and the crown was the exigency of disputes about patronage. Of these disputes in the early fourteenth century, Miss Dobson has recently given an admirable exposition.<sup>3</sup> Although they were by no means

<sup>1</sup> They included, with a few others, in the writer's studies on the history of Patronage, a thesis deposited in the Widener Library, Harvard University.

<sup>2</sup> The writer has searched the "Res" memoranda of about a third of the King's Bench Rolls for the period from 1300 to 1355.

<sup>3</sup> A. Dobson, "Royal Patronage and Royal Rights of Patronage in the Early Fourteenth Century," *E.H.R.*, LXX, 407-439. See also, L. S. Loeber and L. F. Salzman.

most frequent, disputes as to cognisance in other matters often arose. Among these were pleas of charters and debt, neither testamentary nor matrimonial,<sup>10</sup> of pensions and rents,<sup>11</sup> of spoliation of a free tenement,<sup>12</sup> of trespass against the king's peace,<sup>13</sup> and of exemptions from episcopal jurisdiction.<sup>14</sup> By reference to actual cases, therefore, it can be shown that in practice the appeal of certain matters to the Court of Rome was prohibited in the first half of the fourteenth century.

The King's Bench Rolls, however, suggest another and more conclusive proof that the appeal of all matters of royal cognisance was prohibited. At least as early as 1285<sup>15</sup> the King's Bench entertained cases on the writ

*Consecrationem consecrationum in hoc regno habemus episcopum et appellacionem, ultra de ratione regis super aliquibus quorundam capitulis et regum personis, extra istum regnum in romanum tunc non debent . . . in materia et dignitate regis habemus et regis subsecutionem, ac rationem consecrationum predictarum . . .*

So far as appeals outside the realm were concerned, the terms of the writ are just as inclusive, so much and so less, as those of the Statute of Praemunire. They both comprise those pleas whereof the king had cognisance. It must be noted too that the writ asserts that it is founded on custom. The use of the

*Rolls Case before the King's Council, 1282-1285* (Cambridge, Mass., 1878) *Antiqu. Soc. ed.*, pp. 109-110; *Rolls, In officio*, pp. 180-2.

<sup>10</sup> *Ord. Just. Roll*, 1287-1292, p. 185. *Illustration* is cited in W. E. Hold, "William de la Pole and the Statute of Poynings," *P.R.S.*, vi, 187-188 and in L. F. Salzman, *The King's Council in England during the late middle ages* (Oxford, 1909), p. 290.

<sup>11</sup> *Ord. Just. Roll*, 1282-1285, p. 182; *ibid.*, 1285-1292, p. 187; *Rolls Petition*, I, 125, at par. p. 11.

<sup>12</sup> *Ord. Just. Roll*, 1282-1285, p. 18; *Episcopus Johannes de Foliot*, ed. J. Perry (London, 1872 in *Canterbury and York Society*), pp. 57-58.

<sup>13</sup> *Ord. Just.*, p. 17.

<sup>14</sup> *Ord. Just. Roll*, 1282-1285, p. 182; *ibid.*, 1285-1292, p. 185; *Ord. Pap. Reg.*, II, 104-105, 106, 107.

<sup>15</sup> The writ is first recorded for the King's Bench Roll before 1285. The writ issued, however, in November, 1285: E. Symon, *Petition* (The Hague, 1886-87), I, 1, pp. 122-123. A similar writ brought William de la Pole before the Council in 1285: *P.R.S.*, II, 2, *Memor. Roll*, 4, 126, 12, 13; cf. *Ord. Just.*, loc. cit., pp. 187-188. Prohibition for granting *Consecration consecrationum in hoc regno quorundam capitulis et regum personis ultra de ratione regis super aliquibus quorundam capitulis et regum personis . . .* issued in 1285: *Memorials of Archbishop Whetton* (The Hague 1878) ed. J. F. Lamb (London, 1888, 1892) *Antiqu. Society*, I, 126, 127; *P.R.S.*, *Chancery Memorials*, Bundle 14, file 4, no. 2.

writ.<sup>12</sup> others conclusive proof that the appeal of matters of royal cognisance was prohibited decades before 1324. Nor was this the only writ on which appellants to the Court of Rome were summoned by the King's Bench to answer the contempt of the royal jurisdiction.

In fact the Statute of Praemunire did not begin the attack on the papal jurisdiction. In practice the law courts had led the attack for half a century. Against the Court of Rome the statute asserted no new claim.

The second thesis which this essay presents concerns the change in practice that the statute made. The Statute of Praemunire did not declare penalties for appealing to Rome or elsewhere; the statutory declaration of the penalties of praemunire against such appellants was a subsequent development. The statute itself modified the means process by which such appellants were to be brought to court. From it was made the writ *praemunire facias* by which a royal officer was ordered to give public warning of two months that the accused should appear in a specified royal court. The ineffectiveness of the previous process is apparent in the King's Bench Rolls. Over and over again the person summoned did not appear, and the weapons of the court were not adequate to force him to appear.

<sup>12</sup> *Baronum*, 1266 and 1276; the following examples of *habeas* may be found:

(a) *Robert of St. Albans* vs. *Abbot of Walsley*. *PLB*, *Curia regis Rolls*, Easter 12 Edw. II, *Bar. m.*, 144. *CL*, post, p. 47.

(b) *William de Burghesses* vs. *George de Walsley* (justice of Lancaster). *Curia regis Rolls*, Trinity 14 Edw. II, *Bar. m.*, 17 and 18; *ibid.*, Mich. 12 Edw. II, *Bar. m.*, 1 and 2; *ibid.*, Easter 12 Edw. II, *Bar. m.*, 10; *ibid.*, Mich. 12 Edw. II, *Bar. m.*, 1, 14, 16d, and 17d; *ibid.*, Mich. 12 Edw. II, *Bar. m.*, 16d. *CL*, *Curia*, loc. cit., p. 117.

(c) *Nicholas of Northampton* vs. *Guise de Folroy* (justice of Cheshire and Tynghy). *Curia regis Rolls*, Mich. 12 Edw. II, *Bar. m.*, 16. *CL*, post, p. 47.

(d) *Geoffrey of Walsley* vs. *Robert of Maudslowe*. *Curia regis Rolls*, Mich. 12 Edw. II, *Bar. m.*, 9.

(e) *R. and C. de Mole* vs. *William of Yarnon*. *Curia regis Rolls*, Mich. 12 Edw. II, *Bar. m.*, 16d.

(f) *W. of Fyche* vs. *William of Langton*. *ibid.*, *Bar. m.*, 16.

(g) *John of Wyngton* vs. *R. de Mole* (justice of Essex). *PLB*, Trinity 11 Edw. II, *Bar. m.*, 1 and 14. *CL*, post, p. 46.

(h) *Robert de Wyngton* vs. *William de Mole* (justice of Wilton). *Curia regis Rolls*, Mich. 11 Edw. II, *Bar. m.*, 16. *CL*, post, pp. 44, 45.

(i) *William, justice of Wiltshire* vs. *Robert, archd. of Exeter*. *Curia regis Rolls*, Mich. 11 Edw. II, *Bar. m.*, 17.

(j) *Nicholas* vs. *Guise* (justice of York). *Curia regis Rolls*, Mich. 12 Edw. II, *Bar. m.*, 16.

The change which the statute made will be clear from comparisons of the means process before with the means process after the making of the statute.

In those actions which the Statute of Praemuniture affected, the scheme of means process<sup>27</sup> which the King's Bench used between 1380 and 1384 was colloquially something like the following. The accused was summoned to appear on the day on which the original writ was returnable. For his appearance a sheriff was ordered to attach him.<sup>28</sup> One of three situations might confront the sheriff. First, the accused, clerk or layman, held a lay fee through which he could be distrained. Second, the accused, a clerk, held no lay fee but possessed an ecclesiastical benefice. Third, the accused, clerk or layman, held neither a benefice nor a lay fee, and could not be found. A different process was applied in each of these three situations.

In the first situation the accused was attached to appear by the sheriff. He was colloquially attached through pledges; technically he was attached by the body. If he did not come on the first attachment, his pledges were amerced and the sheriff was ordered to distrain him through all his lands and chattels and to have him in court at another specified day. If on that day he did not come, his pledges were again amerced; the sheriff was ordered to distrain him again through his lands and chattels, to answer to the king for their fruits, and to have him in court at another specified day. If on the third day he did not come, the fruits of his lands went to the king; his pledges were amerced, and the sheriff was ordered to distrain him again and to have him in court at another day. "And so," says Fleta, "attachment by means of the Great Distress runs in explanation in personal civil actions until the person summoned has appeared or is distrained."<sup>29</sup> No capias issued ordering the

<sup>27</sup> For means process in the late thirteenth century see Pollock and Matthews, *The History of English Law* (Cambridge, 1898), II, 461-466; *Source of English Law* (1901), I, 474-480; *Statutes*, pp. 51, 52, 474-475. The scheme outlined in this essay is constructed from sources in the King's Bench rolls of which examples will be given here.

<sup>28</sup> For the writ of attachment on the sheriff, Fox, *History of Antiquated Great Britain*, 1867, pp. 48-49.

<sup>29</sup> *Fleta* (London, 1867), p. 144, lib. II, c. 26. Cf. John F. Fox, "Process of Imprisonment in Common Law," *Law Quarterly Review*, 7, 16.

sheriff to impound the accused until a future court day, although a writ directing the sheriff to have his body (clerk's copy) in court on that day issued. Under these circumstances the accused was not outlawed for non-appearance.

The second situation that might arise was that in which the accused was a clerk who had no lay fee but who held an ecclesiastical benefice. If such were the case, the bishop in whose diocese the clerk was beneficed was sent a *revivis facias*. If the bishop executed the *revivis facias* and the clerk did not come, the fruits of the clerk's benefice were sequestered. If the bishop were revivis in executing the *revivis facias*, the sheriff was ordered to attach the bishop to appear and to have his clerk with him. Then the process ran against the bishop as well as against the clerk.

The third situation was that in which the accused, clerk or layman, had neither benefice nor lay fee, and could not be found. If the sheriff made such a return to the first writ of attachment, the *capias* issued. The sheriff was ordered to take the accused by the body wherever he was found and to keep him safely until the next court day. If at that day the sheriff returned that the accused could not be found, another *capias* issued. Likewise after the third default the *capias* issued, and this process usually continued indefinitely. Sometimes, however, after the sheriff had returned that the accused could not be found, he was ordered to put him in prison until he was outlawed. On five days the sheriff in the county court publicly demanded, or excoited, the accused to appear; if at the fifth day, he did not appear, he was outlawed. Such was in general the scheme of many process between 1500 and 1540 in actions with which the Statute of Praemunire was to deal. The application of the scheme may be seen in specific cases.

Two cases will serve to exemplify the manner process in the first situation outlined above. We shall refer to these cases as the *Aylsham* case and the *Stapenhor* case. In the *Aylsham* case, the king in 1500 had presented Robert of Ralshok, keeper of the pely and, to the undivided prebend of Aylsham in the church of Lincoln.<sup>20</sup> Since 1498, however, the prebend of Aylsh-

<sup>20</sup> Cal. Pat. Rolls, 1507-1513, p. 225.

bury had, with papal consent but without royal sanction, been divided into two portions, the prebend of Aylesbury proper and the prebend of Milton.<sup>10</sup> In 1286 Richard of Harving claimed the prebend of Aylesbury proper<sup>11</sup> and Cardinal Gaillard des le Moles claimed the prebend of Milton.<sup>12</sup> The claimants and their abbotson appeared to the Court of Rome against the presentation of Radlock. For making such appeals Harving and his abbotson were to be attached by the sheriff of Buckingham to appear before the King's Bench.<sup>13</sup> Two of the abbotson, John the Draper and John of Chyndon, were attached by pledges to appear at the Quadragesima of St. Michael 1291. They did not come. The pledges were answered and the sheriff was ordered to distrain them through their lands and chattels, and to have them in court at the Quadragesima of St. Martin.<sup>14</sup> On that day they did not come; the sheriff reported that they had been distrained for 4*l.* and 2*l.* respectively. The pledges were answered and the sheriff was ordered to distrain them again and to have them in court in the Hilary term.<sup>15</sup> In the Hilary term they did not come. The sheriff reported that Draper had been distrained for 18*l.* and that Chyndon could not be found. Draper's pledges were answered and the sheriff was ordered to have him in court in the Easter term. A *replevin* issued for Chyndon.<sup>16</sup> Although summoned under penalty of default, Draper did not appear for the next three terms. For the Michaelmas term the sheriff made no report; for the other three terms he reported that Draper had been distrained. With each default Draper's pledges were answered. In the Hilary term of 1293 the sheriff was ordered to distrain Draper for the Easter term.<sup>17</sup> Thereafter the King's Bench Rolls are silent as to Draper's fate.

In the September case, the dean of Wells and four others were accused of having cited a canon of Wells outside the realm

<sup>10</sup> *Cal. Pap. Reg.*, 2, 144-145.

<sup>11</sup> *John de Harving, Post Petitione Regis* (Patent, 1286), 2, 101.

<sup>12</sup> *Cal. Pap. Reg.*, 2, 194-*Cal. Pat. Rolls*, 1287-1288, p. 104.

<sup>13</sup> *Cl. gen.*, p. 58.

<sup>14</sup> *Close upon Rolls*, 1291, 12 Edw. II, Nov. 12, 13.

<sup>15</sup> *Ibid.*, Nov. 12, 13.

<sup>16</sup> *Ibid.*, Hilary 12 Edw. II, Nov. 12, 13.

<sup>17</sup> *Ibid.*, Easter 12 Edw. II, Nov. 12, 13; Trinity 12 Edw. II, Nov. 12, 13; *Ibid.*, Michael 12 Edw. II, Nov. 12, 13; *Ibid.*, Hilary 12 Edw. II, Nov. 12, 13.

in answer about the form of the "villa" of September and other matters whereof cognizance pertained to the King. On the next next *ascendens* *monachorum* they were attached by pledges to appear in the King's Bench during the Trinity term of 1344. They did not come. Their pledges were answered; and the sheriff of Somerset was ordered to distrain them and to have them in court at the Octaves of St. John the Baptist. On that day they did not come. The sheriff reported that one of them had been distrained for 10*l.*; and the other three, exclusive of the dean, had been distrained for 5*l.* each. Their pledges were answered. The sheriff was ordered to distrain them again and to have them in court at the Octaves of St. Michael.<sup>10</sup> On that day they did not come. The sheriff reported that the four had been distrained. Their pledges were answered and the sheriff was ordered to distrain them for the Octaves of St. Hilary.<sup>11</sup> They were then examined until the Quadragesima of Holy Trinity. At that time one of them came, denied his guilt, and placed himself on the country-side. For him a jury was summoned for the Octaves of St. Michael. The other three did not come; the sheriff was ordered to distrain them for the Octaves of St. Michael.<sup>12</sup> On that day they did not come. The sheriff reported that they had been distrained. Their pledges were answered and the sheriff was ordered to distrain them for the Octaves of St. Hilary.<sup>13</sup> On that day they did not come. The sheriff reported that they had been distrained. Their pledges were answered and the sheriff was ordered to distrain them for the Quadragesima of Easter.<sup>14</sup> On that day they did not come. The sheriff reported that they had been distrained. Their pledges were answered and the sheriff was ordered to distrain them for the Octaves of St. Michael.<sup>15</sup> No further reference to them has been found on the King's Bench Rolls, still it seems clear that distress was an ineffective process for getting the accused into court. As for the Dean of

<sup>10</sup> *Close*, reg. B.6, Trinity 17 Edw. II, Ser. no. 5 and 16.

<sup>11</sup> *Ibid.*, Mich. 18 Edw. II, Ser. no. 10.

<sup>12</sup> *Ibid.*, Trinity 18 Edw. II, Ser. no. 17.

<sup>13</sup> *Ibid.*, Mich. 18 Edw. II, Ser. no. 10*l.*

<sup>14</sup> *Ibid.*, Hilary 18 Edw. II, Ser. no. 15.

<sup>15</sup> *Ibid.*, Easter 18 Edw. II, Ser. no. 5*l.*

Wells, the process against him involved the bailiff of the Sherry of Bath and Wells, who made a false return. For some terms a capias issued for the bailiff and distress was against the dean.<sup>12</sup>

The situation in which the accused had no bar for his lord an ecclesiastical benefice may be exemplified by the following instances. In the *Aylesbury* case<sup>13</sup> the sheriff of Buckingham was ordered to attach Richard of Harving to appear in the King's Bench at the Octaves of St. Michael 1351. The sheriff returned that Harving was a clerk, beneficed in the diocese of Salisbury, and had no lay fee in his county. A *revoc facias* for the Quinquagesima of St. Martin was sent to the bishop of Salisbury.<sup>14</sup> The bishop did nothing; and Harving did not appear. The sheriff of Wiltshire was commanded to attach the bishop of Salisbury through pledges to appear along with Harving in the Hilary term.<sup>15</sup> But the sheriff did nothing; and neither the bishop nor Harving appeared. The sheriff was commanded to attach the bishop for the Easter term.<sup>16</sup>

In the same case the sheriff of Buckingham was ordered to attach Gilbert de la Brouce to be in the King's Bench at the Quinquagesima of St. Michael 1351. The sheriff returned that he could not be found. Later it was shown that Brouce was a clerk, beneficed in the diocese of Lincoln and of Coventry and Lichfield. *Revoc facias* were issued to the bishop of Lincoln and to the custodian of the spiritualities of Coventry and Lichfield.<sup>17</sup> Brouce did not come at the Quinquagesima of Hilary 1352. The custodian of Coventry and Lichfield reported that he had been cited. None the less, the sheriff of Warwick was commanded to attach the custodian to be in court at the Quinquagesima of Easter and to have Brouce with him.<sup>18</sup> A similar process was applied against two other adherents of Harving who were clerics beneficed in the diocese of Lincoln.<sup>19</sup>

<sup>12</sup> *Ibid.*, Trinity 11 Ebor. 12 Bar. m. 101; *ibid.*, Mich. 16 Ebor. 13, Bar. m. 101; *ibid.*, 22 Ebor. 14, Bar. m. 101; *ibid.*, 28 Ebor. 15, Bar. m. 101; *ibid.*, 14 Ebor. 16, Bar. m. 101; *ibid.*, 20 Ebor. 17, Bar. m. 101; *ibid.*, 26 Ebor. 18, Bar. m. 101.

<sup>13</sup> *CC. vob.*, pp. 49-50.

<sup>14</sup> *Curia regis* Bolls, Mich. 16 Ebor. 13, Bar. m. 71.

<sup>15</sup> *Ibid.*, Bar. m. 69.

<sup>16</sup> *Ibid.*, Hilary 16 Ebor. 13, Bar. m. 74.

<sup>17</sup> *Ibid.*, Mich. 16 Ebor. 13, Bar. m. 12 and 59.

<sup>18</sup> *Ibid.*, Hilary 16 Ebor. 13, Bar. m. 8.

<sup>19</sup> *Ibid.*, Mich. 16 Ebor. 13, Bar. m. 66; *ibid.*, Hilary 16 Ebor. 13, Bar. m. 74. The accused were Robert of St. Leger and John Mayard.



Another example of the use of the *revue facias* in the second situation, described on page 48, is afforded by the Curton case. The king had presented Nicholas of Nottingham to the priory of Curton cum Thurstly in the church of Eborac. Contrary to a prohibition and to approved custom, Hugo de Talpa cited Nottingham to appear outside the realm to answer as to his right to the priory. A sheriff was ordered to cause Talpa to appear in the King's Bench in the Michaelmas term of 1195. He did not come. The sheriff returned that he was a clerk and held no lay fee. A *revue facias* issued to the bishop of Lincoln. The bishop did nothing, despite the issuance of *revue facias* writs to him for four terms.<sup>48</sup>

Where process, when the accused had neither benefice nor lay fee and could not be found, may be seen in practice in the following case. The abbot of Walden, Alexander of Barney, John of Wharfe, John de la Lee, and two others were charged with having caused the abbot of St. Albans and others to be cited to the Court of Rome in a plea of trespass against the king's primate. A prohibition against answering outside the realm issued to the abbot of St. Albans on 15 March, 1199.<sup>49</sup> The accused were sequestered in the King's Bench until the Quinquagesima of Easter 1200. On that day the king's attorney brought in a *non conveniens* memorandum writ against them. The abbot of Walden had been attached for that day; a capias had issued against the others. They did not come. The pledges of the abbot were sequestered, and another capias issued against the others. The sheriff returned that they could not be found in his bailiwick and that they had nothing through which they could be distrained. Again the capias issued against them for the Quinquagesima of Holy Trinity.<sup>50</sup> The sheriff was ordered to detain the abbot of Walden. At the Trinity term the abbot of Walden came, denied, and placed himself on the country. The king's attorney asked damages of 1000 marks for contempt of

<sup>48</sup> Curton case Roll, Mich. 12 Ric. II. Ret. m. 261, 262, Trinity 12 Ric. II. Ret. m. 261, 262, Mich. 12 Ric. II. Ret. m. 2.

<sup>49</sup> See Curton case, *supra* note p. 48. Such a prohibition issued frequently to prevent cited outside the realm it might indeed be worth to have the Curton-Barney case, 1199-1200, p. 102.

<sup>50</sup> Curton case Roll, Easter 12 Ric. II. Ret. m. 124.

the king. The jury was summoned for the Michaelmas term. In the Michaelmas term John of Skidon came; later in the same term the jury came. The jury said that Skidon was in no wise guilty, but that Alexander of Bamey and a stranger, whose name they did not know, had made an injury of the request of the abbot of Walden about an assault on two of the accused, and, finding that the abbot of St. Albans and others were implicated in the assault, they had cited them to appear at the Court of Rome. Wherefore the abbot of Walden was ordered to be imprisoned until he paid a fine to the king. As to the others of the accused the sheriff returned that he could not find them.<sup>16</sup> Alexander of Bamey and John de la Rye were put in exigent to be outlawed. The sheriff made them exigent first on 22 September, 1253, and on four other days the sheriff publicly demanded that they should appear. But they did not come. In the Trinity term of 1254 the sheriff returned that they had been made exigent, had not appeared and therefore had been outlawed. The sheriff was ordered to inquire what goods they had in his county.<sup>17</sup>

The examples<sup>18</sup> which have been cited so far come from the third and fourth decades of the fourteenth century. They show that the process was then used and that the extreme penalty for non-appearance imposed on those who had something through which they could be distrained was distress and not forfeiture. In the next decade changes in the process appear. The changes may have been an attempt to meet the extended use of processions by Clement VI.<sup>19</sup> By them the writ of "sequest" came to be part of the normal process.<sup>20</sup> A royal officer was ordered

<sup>16</sup> *Close*, *supra* Roll, Trinity 12 Edw. II, Rot. m. 13d.

<sup>17</sup> *Ibid.*, Trinity 14 Edw. II, Rot. m. 16; *ibid.*, Mich. 14 Edw. II, Rot. m. 10d.

<sup>18</sup> Other examples of the use of the writs may be found in the *Registrum*, *supra* 1261, mm. 12 and 12v; 1262, Hilary 14 Edw. II, Rot. m. 14r; the *Antiquary of Bedford*, *supra* 1262, *Trinity* 14 Edw. II, Rot. mm. 17 and 17d; and the *Rolls*, *supra* 1261, 14 Edw. II, Rot. m. 10d.

<sup>19</sup> *CF.* *supra*, p. 42.

<sup>20</sup> The writ of "sequest" issued in 1255 applied all who at longhelle lachon with the royal prosecutor's lawful possession of the manor of North Wykeham. *Cal. Pat. Rolls*, 1255-1260, p. 207. He had already been distrained by summons to the Court of Rome. *Cal. Charter Warrants*, 1252-1255, p. 225. In 1255 and 1256 it issued against all who by distress, sequest or otherwise, delayed several royal justices. *Cal. Pat. Rolls*, 1255-1260, p. 207. The writs has been so various that these were

to arrest the accused so that he should appear in court. The arrest was in essence attachment by the body.<sup>18</sup> If the accused who had been arrested found pledges, malcoptes might be substituted for imprisonment.<sup>19</sup> If the writ of "arrest" did not produce the accused, he was put in exigent to be outlawed. The cumbersome process of the previous decades was accelerated by the writ of "arrest," when the arrest could be made.

Objection was made to the use of the writ of "arrest" in the King's Bench in 1341. The defendant had appealed to the Court of Arches contrary to prohibition after the king had received the right of presentation to the church. The sheriff received and executed a writ to attach him by the body. Thereafter the defendant took exception to the writ on the ground that it was contrary to law to have attached the defendant by the body. He should have been attached through pledges. But, one of the justices, asserted that he had spoken in Chancery about this matter and had been told that it was Chancery's custom to grant writs of attachment by the body against those who attempted to usurp the king's right after he had received judgment.<sup>20</sup>

Although in the decade prior to 1368 the writ of "arrest" usually ordered the production of the accused before the Council, we frequently find him appearing in the King's Bench.<sup>21</sup> This is not to be marvelled at, for Professor Rubin has pointed

had doubts been expressed in the Court of Arches. On the other hand, when the sheriff of York returned a paper warrant for impounding the collection of a royal prerogative to the priory of Santa Marghal, he was ordered to release the prisoner and not to receive him "until some who brought in he should be made called by the king." Cal. Pat. Rolls, 1357-1360, p. 179. Moreover the execution of a writ of "arrest," dated 23 April, 1366, against all persons interfering with Rubin's presentation of the priory of Agilstone, was resisted, "the king intervening to make use of the name of justice." *ibid.*, 1365-1369, p. 176. The writer is not certain that appeal had already been made to the Court of Arches with an appeal had been made before 1 July, 1365. *ibid.*, Arches, Arches, II, 2, p. 25. In 1368 the writ of "arrest" issued against all who interfered those royal prerogatives in possession of their feudaries. Cal. Pat. Rolls, 1367-1369, p. 180.

<sup>18</sup> *Ibid.*, Foremost of Court, p. 22.

<sup>19</sup> *Quinton and Rubin, Select Cases*, p. 25, at page 26, 76, 78. Cal. Chanc. Rolls, 1357-1360, p. 179; *ibid.*, 1361-1365, pp. 184, 191.

<sup>20</sup> *Pat. Rolls*, vol. I, 2, 1366 (Rolls Series), at folio 121, p. 180.

<sup>21</sup> Cf. *pat. roll*, 76, 78; Cal. Pat. Rolls, 1359-1360, p. 179 and *Arches* *supra* *Rolls*, *Trinity* 29 folio 121, *Ascension* 29 folio 121; Cal. Pat. Rolls, 1361-1365, p. 180 and *ibid.*, 1365-1369, p. 186.

out that by 1280 the Council and the King's Bench were not mutually exclusive bodies.<sup>17</sup> In the execution of this writ there is striking evidence of their interrelation. If to the writ of "arrest" it was returned that the accused could not be found, exigency and outlawry followed.

The writ of "arrest" appears frequently on the Patent Rolls;<sup>18</sup> it is referred to also on the Rolls of Parliament. In 1282 the king granted the petition of the Commons that the writ of "arrest" should issue against all persons who made appeals against the persons of themselves or their parents, or who pursued in any court where something to the prejudice of the king or his houses might be done.<sup>19</sup> In the next year the Commons petitioned that, since no new penalty had been yet ordained against those who pursued in the Court of Rome to witness or seal judgments of the king's courts, remedy be made. They prayed that the penalty of perpetual imprisonment or exile be imposed on those convicted of making such suits, and that if they be not found exigency and outlawry run against them. Machinery for the inquiry and indictment in such cases was also requested. The petition was granted<sup>20</sup> and the promise was made that the ordinance should be made into a statute which would last perpetually. The statute was not made, and in 1287 the Commons called attention to this fact.<sup>21</sup> Still the statute was not made.

When in the parliament of 1291 the Commons petitioned for remedy against those who sued in the Court of Rome to defeat the execution of judgments rendered in the king's courts, they were told that suitable remedy was available for those who wished to sue for it.<sup>22</sup> In the same parliament the Statute of Provisors was made.<sup>23</sup> It declared penalties against those who disturbed the provisions of the king or of ecclesiastical patrons

<sup>17</sup> Rollinboth, *op. cit.*, I, 329-330; Rollins, *King's Council*, p. 288. Finally the king has been charged that the Council needed give to the King's Bench Rollinboth, *ibid.*, p. 328.

<sup>18</sup> *Ibid.* Pat. Rolls, 1272-1273, pp. 271, 282, 283, 1282-1283, pp. 24, 25, 226-227, 1284-1285, pp. 134, 144-145, 174, 175, 189, 222, 1286-1287, pp. 24, 273, 277-278.

<sup>19</sup> Rollinboth, I, 328.

<sup>20</sup> *Ibid.*, I, 329-330.

<sup>21</sup> *Ibid.*, I, 374-375.

<sup>22</sup> *Ibid.*, I, 328.

<sup>23</sup> *Ibid.*, I, 329-330; Statute of the Rolls, I, 128.

by papal provision. If such districts detached, the exigent and outlawry should run against them. In sum, between 1343 and 1345 the king in parliament had authorized the use of the writ of "arrest" for the production in court of certain imprisoned of the royal jurisdiction, and the use of the exigent and outlawry against those who failed to appear.

Illustrations of the practice in this decade may be found in the Patent Rolls. The late prior of St. Oswald's, Northall, had recovered a rent of 80 marks against the late parson of Lythe by a judgment of the Common Bench. The present parson, John of Bolton, sought to nullify that judgment by an appeal to the Court of Rome.<sup>10</sup> On 26 January, 1343, a commission was appointed to arrest Bolton and bring him before the Council.<sup>11</sup> On the following 19 March another commission was appointed for the same purpose.<sup>12</sup> The matter was impounded in the King's Bench in the Trinity term of 1343. Bolton did not appear; he was put in exigent for the following Hilary term and for non-appearance he was outlawed. Bolton and the prior came to an agreement between themselves. In view of that agreement and the good service of Bolton beyond seas, and for a fine of 300*l.*, Bolton was pardoned his outlawry on 4 November, 1343. Five days later he was pardoned the payment of the fine.<sup>13</sup>

In 1347 a commission was appointed to find the names of those who procured appeals in derogation of the judgment of the Common Bench by which Roger of Whymerton had recovered the right to present to the parson of Thrope in Berden.<sup>14</sup> For such procuration at the Court of Rome Robert of Treke was to be attached to answer in the King's Bench. Before he was put in exigent, three writs of capias issued. For non-appearance he was outlawed.<sup>15</sup>

One of the most recalcitrant of the appellants to the Court of

<sup>10</sup> Pat. Rot. Roll, 1342-1343, m. 159-161.

<sup>11</sup> Ibid., p. 160; cf. note, p. 69 note 25.

<sup>12</sup> Pat. Rot. Roll, 1342-1343, m. 159-161.

<sup>13</sup> Ibid., 1342-1343, pp. 161, 162. Cf. Curia reg. Roll, Trinity 26 Edw. III, m. 25, 26a, 26b, 26c, 26d, 26e, 26f, 26g, 26h, 26i, 26j, 26k, 26l, 26m, 26n, 26o, 26p, 26q, 26r, 26s, 26t, 26u, 26v, 26w, 26x, 26y, 26z.

<sup>14</sup> Pat. Rot. Roll, 1346-1347, p. 171.

<sup>15</sup> Ibid., 1346-1347, p. 170; Cal. Pap. Rec., 13, 170; Curia reg. Roll, 26 Edw. III, m. 25.

Rome was Nicholas of Beth. Claiming rights by papal provision he disturbed several royal possessions in benefices.<sup>14</sup> In one case he sought to obtain the church of Hodenot in Cheshire after the king had recovered the right of presentation. In derogation of their judgment, Beth had appealed to the Court of Rome. An order to attach him by the body and bring him before the Council issued on 28 February, 1349.<sup>15</sup> He was commanded to return from the Court of Rome and appear before the Council before Christmas 1348. When he failed to return the Council ordered the bishops in whose dioceses he was beneficed to sequester the fruits of his benefices. He was put in exigent; and if he returned to England, he was to be attached by the body and imprisoned at the king's will.<sup>16</sup> When he found pledges who promised to have him before the king in the Michaelmas term of 1349, the execution of the exigents and the sequestrations was suspended.<sup>17</sup> When he made a fine with the king for 100 marks and promised to behave well in the future, the processes against him in the King's Bench were stopped.<sup>18</sup> But the fine was not paid by 24 October, 1351. He was outlawed for his contempt; and the sheriffs of London, who had arrested him on another charge, were ordered to hand him over to the constable of the Tower. He was to be imprisoned there until he paid the fine.<sup>19</sup> In November, 1351, Beth appeared before the king in Chancery and promised not to sue in the Court of Rome or elsewhere for his benefices.<sup>20</sup> He was consequently pardoned his outlawry and released from prison.<sup>21</sup> Almost immediately he seems to have gone to the church of Hodenot and to have attempted to remove the royal possession.<sup>22</sup> Thereupon an order issued to attach him by the body and bring him before the Council.<sup>23</sup> The pardon for his outlawry was revoked;<sup>24</sup> and a continuation was charged to

<sup>14</sup> *Ibid.* *Pat. Rolls*, 1349-1354, p. 100.

<sup>15</sup> *Ibid.*, 1347-1351, pp. 101, 113; *Pat. Reg.*, II, 106; *Pat. Roll*, 1347-1351, p. 100.

<sup>16</sup> *Calendar of the Pipe Rolls* preserved in the Public Record Office, 1347-1351, p. 106; *Register of Adam de Poles*, pp. 200-201.

<sup>17</sup> *Ibid.*, p. 100; *Pat. Fine Rolls*, 1347-1351, p. 100.

<sup>18</sup> *Ibid.*, p. 100.

<sup>19</sup> *Ibid.*, p. 100.

<sup>20</sup> *Pat. Fine Rolls*, 1351-1355, p. 100.

<sup>21</sup> *Ibid.*, pp. 100, 101.

<sup>22</sup> *Ibid.*, p. 100.

<sup>23</sup> *Ibid.*, p. 100.

<sup>24</sup> *Ibid.*, p. 100.

arrest him.<sup>21</sup> Apparently Beth escaped abroad. On 20 May, 1224, he was recommended to come to England under pain of forfeiture to inform the king and his Council upon certain things which would be laid before him.<sup>22</sup> Apparently he came; he was imprisoned in Nottingham castle before the end of 1226. When he found a pledge to have him before the king in Chancery in the Hilary term of 1227, he was released from prison.<sup>23</sup> Under warrant of the pety seal, Chancery issued, on 12 February, 1227, a confirmation of Beth's estate in the church of Hadenst, as well as in other benefices.<sup>24</sup> By the following 8 July, he had made a fine of £200 before the King's Bench for his contempt;<sup>25</sup> and by 18 November, he had found pledges that he would not drive any of the king's subjects outside the realm in pleas. He was purchased 100 marks of the fine and granted permission to pay the rest in instalments.<sup>26</sup> He was given the sequestration of his sequestrated benefices until he had paid the fine. After the fine had been paid, their sequestration was to be relaxed.<sup>27</sup> At the request of certain of the king's advisers, Beth was granted license, on 8 May, 1228, to sue within or without the realm against those who despoiled him of his benefices, tithes, or other fruits, provided that he attempt nothing to the prejudice of the king or his realm or to the injury of the law of England.<sup>28</sup> He was allowed to sue, in other words, as by spoliation, not as to right of patronage. Apparently he decided to sue at the Court of Rome, for he was going abroad in May, 1228.<sup>29</sup> He occupied the church of Hadenst in 1231, when the report of his death caused the king to grant it to another.<sup>30</sup> The report proved false.<sup>31</sup>

Such examples illustrate current process in the decade prior to 1222 in actions which the Statute of Praemunire was to con-

<sup>21</sup> *Ibid.*, p. 227.

<sup>22</sup> *Cal. Clos Rolls 1212-1225*, p. 72.

<sup>23</sup> *Ibid.*, p. 228.

<sup>24</sup> *Cal. Pat. Rolls 1215-1225*, p. 214.

<sup>25</sup> *Regimen Johannis de Trithem.*, p. 174.

<sup>26</sup> *Cal. Pat. Rolls 1222-1225*, p. 222.

<sup>27</sup> *Regimen Johannis de Trithem.*, p. 175.

<sup>28</sup> *Cal. Pat. Rolls 1224-1225*, p. 227.

<sup>29</sup> *Ibid.*, p. 22.

<sup>30</sup> *Ibid.*, 1227-1228, p. 124.

<sup>31</sup> He died in 1236 and his portion of benefice in the church of Bathurst, over which he had had much litigation, was given to another: *Regimen Johannis de Trithem*, ed. W. W. Capes (London, 1910; Canterbury and York Society), pp. 74, 174.

prie. Previously the writ of attachment by pledges had not proved effective. In consequence the writ of "arrest" was normally substituted for the writ of attachment by pledges. Against those who could not be arrested, the writ of "arrest" was ineffective. For persistent default, the accused was put in *exigent* and outlawed.

In the autumn of 1353 the Statute of Præmunire was made. It provided that those persons, ecclesiastical or lay, who drew a matter of royal significance outside the realm or elsewhere should be given a public warning of two months to appear before one of several courts. If they did not come on the day for which they had been forewarned, they and their chattels should be put outside the king's protection and their lands, goods, and chattels forfeited to the king. The *captias* should issue against them. If to the *captias* it be returned that they could not be found, they should be put in *exigent* to be outlawed. The statute was concerned with defaulters and modified *inquests percuras*. It was directed particularly against fugitives from justice.

This interpretation follows from a careful reading of the statute. It is also the interpretation made in 1355 by Justice Green in the Common Bench. On a writ of attachment on a prohibition the king sued against the prior of W. for having appealed to the Court of Rome in derogation of a judgment of a royal court. The prior came and was found guilty. The king's attorney asked judgment on the Statute of Præmunire. Green declared that he could not have it. He had used on a writ of attachment on a prohibition, which was a writ of Common Law and not on the statute. Judgment was given on the statute only in case the person against whom the writ was made did not come; and in this case the prior came. Green went on to say that in his opinion the statute was intended against those who had nothing through which they could be justice, against those who were waylaid, passing to and fro; and in this case the prior had remained in the realm and appeared. Hence judgment could not be given against the prior on the statute. With this opinion Fish disagreed on the ground that the prior had committed a great trespass and contempt, and although



the statute did not by express word give judgment except in case the party defaulted, still it seemed that, if he came and was attended, judgment should be given on the statute. Green replied, "I say no. It was made only for those who do not want to be justified and are hightiven . . ." It was then agreed that the prior should be taken.<sup>42</sup>

Under the statute, then, *invenio processum* consisted of (1) a forswearing to appear, (2) forfeiture and a *replevin*, and (3) the adjourn and outlawry. It differed from the previous process in the substitution of the writ of "forswearing" for the writ of "arrest." Further it declared the penalty of forfeiture against those who did not answer to the writ of "Forswearing." For the forswearing the writ *præsumitur factus* was derived and in this supplied a new name for the statute out of which it had grown. A Latin translation of the French of the statute served as the preamble of the writ.<sup>43</sup>

The writ *præsumitur factus* did not, however, completely supplant the writ of "arrest." In practice the writ of "arrest" continued to be used against those who could be arrested, and the action of arrest as a *factum* as a prohibition continued as a Common Law action. If there was likelihood that the accused could not be arrested the writ *præsumitur factus* issued. This interpretation of the relationship between the two writs is confirmed by the opinion of Justice Green, by the hundred statutes of 1581 and 1585,<sup>44</sup> and by actual cases of their use.

In 1581 William of Norwich was provided by the pope to the church of Stashope in the diocese of Durham.<sup>45</sup> The king claimed and recovered the right to present to the King's Bench. On 8 February, 1583, a prohibition against proceedings in derogation of this judgment issued; simultaneously a writ of "arrest" issued. All persons who presented appeals were to

<sup>42</sup> Four-Bucks, *Les Regens des Cours en Ley* (London, 1579), 39-40a, 111, p. 11. Cf. Anthony Fike-Baker, *Patens Director* (Exeter, 1585), p. 147. On the meaning of the phrase "the prior should be taken," see Fox, *Chronicle of Court*, III, 108, 107.

<sup>43</sup> Green says *factus*, *Trinike* 36 Edw. III, 200-201, 50 and elsewhere. Cf. H. Russell, *A Treatise of Justice* (London, 1579), pp. 100-101.

<sup>44</sup> *Statutes of the Realm*, I, 163, 164, II, 164E.

<sup>45</sup> *Chronicle of the Kings and Popes*, *Reges et Pontifices*, 1581-1583, ed. F. H. Bliss (London, 1895), pp. 181, 181.

be brought before the Council.<sup>16</sup> On a *premonstratio facias* William of Norwich and others were forewarned to be before the King's Bench during the Easter term of 1352. They came, but no one came to prosecute them; hence they went *absque die*.<sup>17</sup>

In 1350 a *premonstratio facias* issued in a dispute about the right of presentation to the parson of Northwell Overhall in the church of St. Mary's, Southwell. The king had reserved the right to present and had granted the parson to William of Northwell.<sup>18</sup> By a papal grant<sup>19</sup> Thomas of Beham claimed the parson, and with four abbot's sought to carry the matter to the Court of Rome for another examination. In consequence the sheriff of Nottingham received a *premonstratio facias* dated 1 May, 1350, commanding him to forewarn them to be before the King's Bench on 24 June, 1350. On that day the sheriff returned that he had forewarned them on 14 May. Apparently they did not come and the copies issued against them for a fortnight. Then two of the abbot's came and were given a day in the Michaelmas term. Beham and the two other abbot's did not come; they were placed outside the protection of the king and the sheriff was ordered to put them in *exigenti*. Beham was afterwards outlawed. He was in 1358 pardoned his outlawry. Finesham went bail to the amount of £100 that Beham would do nothing to the prejudice of the king nor of the law.<sup>20</sup>

William of Lym, the bishop of Exeter, was beyond seas from 1352 to 1357.<sup>21</sup> At the Court of Rome he complained that Richard, earl of Arundel, and several others had done him injuries. While a suit between them was pending in the King's Bench, the bishop presented the personal citation of the earl and others to appear at the Court of Rome on 1 October, 1354.<sup>22</sup> At the king's request, the pope, on 30 September, 1354, revealed the personal citation on condition that profectory of the earl

<sup>16</sup> *Cal. Pat. Rolls, 1352-1354*, p. 338.

<sup>17</sup> *Curia regis Rolls, Easter II* (Eve. II), *Baron. Lib.*

<sup>18</sup> *Cal. Pat. Rolls, 1349-1351*, pp. 376, 389; *Cal. Pap. Reg., 2*, 109-110; *ibid.*, 10, 52; *Cal. Pat. Rolls, 1351-1352*, p. 456; *in Nova. Feod. R.*, 161.

<sup>19</sup> *Cal. Pap. Reg., Pontificatus, 1352-1353*, p. 330.

<sup>20</sup> *Curia regis Rolls, Trinity III* (Eve. III), *Bar. in. II* and *electores*; *Cal. Pat. Rolls, 1354-1357*, p. 362.

<sup>21</sup> *ibid.*, *ante 1354*, p. 330; *ibid.*, 1354-1357, p. 32; *Cal. Close Rolls, 1354-1357*, p. 32.

<sup>22</sup> *Cal. Pat. Rolls, 1354-1357*, p. 330.

and the others appear within a year. At the same time he ordered the abbot of St. Edmund's, Ghent, to go to England with powers to bring an agreement between the parties.<sup>122</sup> In the Easter term of 1265 a praemunire *fuitis* against the bishop was returned to the Common Bench. The bishop's attorney declared that the sheriff had not given proper forwarding, as provided for in the statute of 1255. The king's attorney rejoined that the sheriff had returned praemunire *fuit* and that it was the intent of the statute that the warning should apply to those outside the realm. Later the king's attorney alleged from the Second Statute of Provisions that the accused should have come in his own person. The bishop's attorney objected that this was not a statute.<sup>123</sup> However, at the Trinity term judgment was given that the bishop should be put outside the king's protection and that his lands, goods, and chattels should be forfeited to the king. The court wished to consider whether or not the capias should issue against him.<sup>124</sup> At the king's command the bishop returned from the Court of Rome in 1267, and along with the seal submitted himself to the judgment of the king. The king pardoned the bishop his contempt and restored his temporalities and goods to him on 4 July, 1267.<sup>125</sup>

Further clarification of the process under the Statute of Praemunire is given us by remarks of Thorpe, chief justice of the Common Bench. In the Easter term of 1278 a writ on the Statute of Provisions was used by the abbot of Waltham against several persons, against some as principals and against others as accessories. At the return of the praemunire *fuitis*, the principals did not come. They were put outside the king's protection, and their lands and chattels were declared forfeited. In the discussion as to whether the accessories should be made to

<sup>122</sup> *Cal. Pap. Rom.*, iv, 14, 15, 16-17, 26; *Spence, Preface*, B. 2, p. 20.

<sup>123</sup> Cf. T. F. V. Flanagan, *Statutes and their Interpretation in the First Half of the Fourteenth Century* (Cambridge, 1909), p. 24.

<sup>124</sup> *Four Shillings* (ed. 1265), in *Selden Soc.*, p. 7. On the question as to whether or not the capias should issue against the bishop, it is to be noted that the Statute of Provisions of 1259 exempted prelates and lords from the operation of the capias.

<sup>125</sup> *Cal. Close Rolls, 1262-1267*, p. 101; *Four Shillings*, 1262-1267, p. 100. Cf. *Chron. des Papez en Bretagne et de leurs vicaires* (Louvain, 1892), vol. I, *Text* (Louvain, 1892), pp. 126-127, 127-128. This was likely done among those which caused the making of the Statute of Provisions of 1259.

respond, when the principals had not, Thorpe declared that the penalties imposed on the principals were those prescribed by the statute, "for the statute intends that if they do not come at the first writ, they shall be put outside the king's protection, and the copies shall have against them; and if at the copies they do not come, they shall be put in outlawry . . ." <sup>107</sup>

The writ of *procuratoribus* did not completely supplant the writ of "arrest." Some examples of the use of the writ of "arrest" after 1268 have been noted above; <sup>108</sup> a few others should be noted here. In 1268 it issued against all persons who presented appeals in derogation of the judgment by which the king recovered the right of presentation to the church of Eddesburgh in the diocese of Ely.<sup>109</sup> Walter of Barton, who claimed the church through a papal grant,<sup>110</sup> was summoned to appear for presenting such appeals. For non-appearance he was put out of the king's protection, and his lands and goods were forfeited. But on 3 November, 1268, at the request of the chancellor, Simon Langham, the king pardoned him and restored his forfeited goods and lands.<sup>111</sup> He was later given license to prosecute his right according to ecclesiastical law.<sup>112</sup>

The writ of "arrest" issued on 27 June, 1269, against all who attempted to draw the king's right of presentation to the church of Cheshamford to another trial after the king had recovered it.<sup>113</sup> John of Eddesburgh was summoned to the King's Bench for having carried the matter to the Court of Rome. Refusing to stand trial, he was outlawed for contempt.<sup>114</sup>

The chapter of Lincoln had a long-standing dispute with the dean of Lincoln about the right to collate to the bishopric of the Altar of St. Peter in their church.<sup>115</sup> Despite several decisions in ecclesiastical courts which had granted the chapter a

<sup>107</sup> *Four Shillings* (ed. 1899), in *Elys. II*, p. 8.

<sup>108</sup> *II. 1268*, pp. 71, 72, 73.

<sup>109</sup> *Ord. For. Reg.*, 1268-1271, p. 426.

<sup>110</sup> *Ord. For. Reg.*, *Passages*, 1268-1271, p. 426.

<sup>111</sup> *Ord. For. Reg.*, 1268-1271, p. 426. *Reichsarchiv* has the official Langham when the letter was the bishop of Ely; *Ord. For. Reg.*, *Passages*, 1268-1271, p. 426.

<sup>112</sup> *Ord. For. Reg.*, 1268-1271, p. 427.

<sup>113</sup> *Ibid.*, 1269-1272, p. 126; *Ibid.*, 1269-1272, p. 426.

<sup>114</sup> *Ibid.*, 1269-1272, pp. 126, 127.

<sup>115</sup> *Chronicle of Lincoln Cathedral*, ed. H. Becham (Cambridge, 1922-23), 2, 263-264, 268-269, 261, 262-263.

concurrent right with the dean, Dean Simon of Ely kept to collate John of Wyntonham independently about 1238.<sup>12</sup> The chapter denied the dean's claim and used a *quare impedit* in the Common Bench. While this plea was pending, Wyntonham appealed to the Court of Rome. For making this appeal, Wyntonham and the dean were cited to appear before the King's Bench on a writ *cum mandatis constitutivum*. . . . Action was taken at the Common Law and not on the Statute of Praemunire. The answer did not come. A capias issued against them; and the sheriff of Lincoln was ordered to put them in exigent to be outlawed. At the Trinity term of 1239 they did not appear; the sheriff had not sent the writ. He was therefore commanded as before to put them in exigent.<sup>13</sup> Before the end of 1239 the dean was dead.<sup>14</sup> By 4 June, 1241, the chapter had recovered the right of presentation in the Common Bench. A writ of prohibition against proceedings in derogation of this judgment and a writ of "arrest" against all those prosecuting appeals issued.<sup>15</sup> Wyntonham was outlawed for non-appearance; nothing is said about forbitham. When, however, he surrendered himself to the Marshalsea prison, on 29 January, 1241, he was pardoned his outlawry, but had to make imprisonment until he had satisfied the law.<sup>16</sup>

Such examples as these show the use of the writ of "arrest" after 1235. It had not been supplanted by the writ *praemunire facias*. By the use of these two writs justice process had been greatly accelerated since 1215.

In 1265 the Statute of Praemunire of 1215 provided new machinery for summons in actions against those who appealed outside the realm or elsewhere in matters of royal cognisance. It declared a new penalty for non-appearance on that summons, the penalty of forbitham. It declared for continued default a penalty previously imposed, the penalty of outlawry. The form of summons and the penalties were applied particularly to knights from justice. It did not declare penalties against

<sup>12</sup> It would provide due to remedy was made in this part *Ord. Pap. Reg. Parl.*, 1265-1274, pp. 365, 366.

<sup>13</sup> *Curia Regis Roth. Trinity to Ely*, 22, Rot. n. 385.

<sup>14</sup> *La. Soc.*, *Final R.*, 38.

<sup>15</sup> *Ord. Pap. Reg. Parl.*, 1265-1274, p. 36.

<sup>16</sup> *Ibid.*, pp. 364, 365.

those who came and were convicted. Penalties against the convicted were agreed upon in the parliament in which the Statute of Praemunire was made; they were forfeiture and imprisonment.<sup>12</sup> They do not, however, appear in the statute itself.

In the light of the evidence presented above, the Statute of Praemunire of 1353 must be placed in a setting different from that in which it usually appears. In general, its political significance is overshadowed by its legal significance. It was in part statutory of the Statute of Provisors, for it denied machinery for bringing infringers of that statute to justice. In consequence it may be considered an anti-papal statute. Against the papal court, however, it claimed no right that had not been claimed for half a century. It was made in an age when the law courts were responding "to that process of definition and differentiation which is discernible in other aspects of institutional history."<sup>13</sup> In that age statutes dealing with process and procedure were frequent.<sup>14</sup> It is among these statutes rather than among those which were specifically anti-papal that the Statute of Praemunire of 1353 has its proper place.<sup>15</sup>

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<sup>12</sup> *Statute Poenale*, I, 104.

<sup>13</sup> F. D. Paul, *Changes in the Administrative History of Medieval England* (Manchester, 1929, 1930), II, 104.

<sup>14</sup> *Rollschronicle*, op. cit., I, 103.

<sup>15</sup> The author wishes to express his gratitude to the late Mr. W. E. Lane of Barnard College for his helpful criticism of the manuscript of this essay.

## GREEK VISITORS TO ENGLAND IN 1451-1456

Accounts of the influence of Italian humanism upon England in the fifteenth century incline to put the emphasis upon two periods. One lies in the first half of the century when Humphrey, duke of Gloucester, who died in 1447, was a patron of Italian letters; the other falls after 1493 when Greyen, Ussere and Colet visited Italy, returned with new enthusiasm for humanistic studies, especially for Greek, and made their influence felt upon university life. It is suggested that between the two periods interest in Italian learning languished, and that the humanising of England definitely began only in the reign of Henry VII. Although between 1447 and 1493 a few Englishmen studied in Italy, their influence upon the culture of their own land was confined largely to the bringing home of libraries which they had collected abroad and which, in some instances, they gave to Oxford or Cambridge colleges. No significant change took place in university or other study and, in particular, Greek was not taught until the seventies, even if it was during that decade.<sup>1</sup>

In Italy, on the contrary, the period is the brightest in the annals of humanism. At Florence scholars gathered round Colino and at Rome round Nicholas V. Enthusiasm for the transcribing of manuscripts, the formation of libraries and the translation of Greek classics into Latin reached its height. The impetus earlier given to Greek studies by the teaching of Chrysostom and by the presence of Greeks at the council of Ferrara and Florence in 1438 was augmented after 1445 by the arrival of Greek scholars and Greek manuscripts from Constantinople. It seems strange that no wave of this scholarly activity reached England, even though that distant land was troubled by foreign and civil war.

<sup>1</sup> Cf. Fagn, *Les Philologues des dernières décades du 15<sup>e</sup> siècle*, 1889, II, 228-229; J. E. Sinclair, *A History of English University* (Cambridge, 1902-1903), II, 229-232; C. E. Rieupey, *English Historical Literature in the Fifteenth Century* (Oxford, 1915), pp. 2-3; C. G. Kneale, *The Italian Renaissance in England* (New York, 1909), pp. 1-10.

The slight esteem felt for English humanism of the period 1442-1448 is reflected in the cursory manner in which it has been described. Toigt devotes to it four pages, Sandys three, and Eliaševič three. Biographers in the Dictionary of National Biography, if not actually wanting, enlarge upon political rather than scholarly activities and, of course, do not correlate the careers of the men described. Occasionally a memoir on the following period, like that of Barrow on Gropius, glances back to this earlier time.<sup>2</sup> What characterizes all accounts, however, is an extreme dependence upon Vaspušan's *ſarv* and Le Land's *ſcrijptura*.<sup>3</sup> Careful as the sixteenth-century English antiquary usually was, his biographical notes are brief, give little attention to dating or co-ordinating events, supply no references for many of his statements, abound in eulogy, distortion and repetition, and confessedly are jottings of such reports as were current and of such items as came to the writer's notice. Vaspušan confined himself to telling of the sojourns of these Englishmen in Italy. Although both authorities are indispensable, a more extended study of the period is to be desired and one may soon be forthcoming.<sup>4</sup> Meanwhile, it may be advisable to add any pertinent items to the scanty sources available, especially if something can be learned about the beginning in England of what so much preoccupied contemporary Italy, the study and teaching of Greek. Dr. Montague James declares that "the very large subject which . . . is crying out for an adequate historian[is] the story of Greek Learning in Western Europe from 1400 to 1500."<sup>5</sup>

<sup>2</sup> Cf. Barrow, *Memoir of William Gropius*, in *Colchester, and other Oxford Hist. Soc.* (1895), pp. 122-123.

<sup>3</sup> *Compendio de Historiis*, *ſcriptura* named *ſcriptura de ſcriptura* (Florence, 1570); Eng. trans., W. Gropius and E. Watson, *The Florentine Biographer* (London, 1901). The translation is cited hereafter as *V*. Le Land, *Compendio de ſcriptura de ſcriptura* (London, 1901).

<sup>4</sup> Cf. *Biographies*, last volume of a Russian study by W. Ruzhica, the title of which has been given as *ſcrijptura de ſcriptura* (English translation by the same author, published in 1905, was that the author proposed to treat in a monumental way the literature as well as the treatment's contents). The latter is the subject of the volume of 140 pp., under review (*ſcrijptura de ſcriptura de ſcriptura* (London, 1905), 40 pp.).

<sup>5</sup> M. R. James, "Greek Manuscripts in England before the Renaissance," *Transactions of the Philological Society*, 1901, vol. 102.



New information, if not about the study of Greek, put about mid-fifteenth century Greek, is contained in four items entered on the inner rolls of the English exchequer for the year Michaelmas, 1451 — Michaelmas 1452.<sup>1</sup> They relate to the payment of gifts of money to four Greeks and run as follows:<sup>2</sup>

8 December, 1451. Symeon Palaeologus Miles. In denario alii libensilis per manus proprias in percolationem x libensilis quas dimisit Rex coram de iure et considerationibus ipsius dimissionis Regis inuentionis de dimissionis sua et deo non libensilis mandavit per litteras de privata sigilla inter mandata de hoc termino  
x li.

26 April, 1452. Theodori Colachis de Grecia. In denario alii libensilis per manus proprias in percolationem xl s. quas dimisit Rex de archiepiscopo Cancelli vel alio Theodori libensilis mandavit habendas de dimissionis per viam dimissionis sua per litteras de privata sigilla inter mandata de hoc termino  
xl s.

26 April, 1452. Episcopus Wyntoniensis. In denario alii libensilis per manus proprias in percolationem x libensilis quas dimisit Rex eidem episcopo per litteras dimensio per ipsius Episcopus soluta eidem Theodori Miles de Constantinopoli ex mandato ipsius dimisit Rex de archiepiscopo Cancelli vel libensilis mandavit ex eadem predicta per litteras de privata sigilla inter mandata de termino sancti Michaelis ultimi preteriti  
x li. viij s. iij d.

22 July, 1452. Theodori Agiopolis de Constantinopoli. In denario alii libensilis per manus proprias in percolationem x libensilis quas dimisit Rex eidem Theodori libensilis mandavit habendas de deo non per viam regis per litteras generale curiam de privata sigilla inter mandata de termino Pasche ultimo preteriti, Regis iure  
x li.

<sup>1</sup> P.R.O., E. 102/100, 101.

<sup>2</sup> One of the following sentences refers to the selling of Bibles in the Latin Church: William Weylde, "Gyng an sentence: 'It ys thei willes,'" he says that a citizen of Constantinople, a knight of the golden cross named Theodori, passed through the mountains of Thracie twenty asses of gold from the royal treasury to the Church. The Life of William Weylde (London, 1842), p. 105, note.

What differentiates these payments from most of those on the rolls is that they are paid in cash and not by assignment. Usually the record runs *pro denario ad liberatis per assignationem* . . . and there is no certainty as to when the assignment was met or, indeed, whether it was met at all.<sup>1</sup> These gifts, however, came into the hands of the grantors — in three instances directly, in the fourth through an intermediary. Such personal receipt of the money buttresses my doubt that the four men were present in England at the time that the exchequer records payment. In the case of Palaeologos and Chrysosomus the writs issued to the barons when the gifts were decided upon were of the same exchequer term as the payment. The writ for Emmanouel's ten marks was of the preceding term. For Aggropoulos, who was not paid until 18 July, 1458, the writ to the barons was among the writs of the Easter term of 1455, a period from ten to sixteen months earlier than the date of payment. To him, therefore, first of the four, a gift was promised between 1 March and 1 October, 1455.

As it happened, this was one of the most disturbed periods in the years of civil strife. The Yorkist party, which had been conducting the government with some ability during 1454, was dispossessed early in 1455, when, on 14 March, the earl of Wiltshire replaced the earl of Worcester as treasurer.<sup>2</sup> The Yorkists, quickly accepting the challenge, recovered power by the first battle of St. Albans, fought on 20 May. Promptly they reconstituted the administration and retained control of it until toward the end of 1458.<sup>3</sup> Three of the gifts to the Greeks date from October, 1455, to April, 1458, while it is likely that the one to Aggropoulos was made in the four months of the Easter term which followed St. Albans rather than in the two months which preceded the battle. If so, the second Yorkist administration, which in general was able and reformist, was characterized also by some degree of generosity toward the refugee Greeks. At a time when it was making vigorous efforts to attain financial economy and stability, it bestowed upon them gifts, which,

<sup>1</sup> When assignments are cancelled without reimbursement the term *pro denario* is not cancelled, they were probably paid in advance or later.

<sup>2</sup> *Pat. 250*, 1045, 1324-1325, v. 100.

<sup>3</sup> J. H. Harvey, *Lawrence and John (Edmund), 1455*, I, 106.

though seemingly small, yet amounted to more than was given to anybody else in cash.

The somewhat exceptional character of the gifts was more than paralleled by the entirely exceptional character of the visitors. Greek knights and Greek scholars can seldom have been seen in England before. Italian scholars had not infrequently come as visitors or at the suggestion of patrons. Poggio had accepted Cardinal Beaufort's invitation in 1418-1422, and *Armenio Silvius de' Florentinis* had journeyed into Scotland in 1423.<sup>10</sup> Gloucester's patronage had attracted Tito di Fark, Antonio Beccaria, and Lupo da Castiglione, the first giving testimony to his obligations to England by writing a significant life of Henry V.<sup>11</sup> Greeks, however, were not numerous anywhere in the west before 1400, and there is little record of them in England. The Greek emperor, Manuel Palaeologus, was entertained at Canterbury and at London in December, 1400, and Manuel Chrysoloras visited London apparently in 1406.<sup>12</sup> Although Greek merchants at times went their ways to and from England in the Venetian galleys, they themselves probably did not go thither.<sup>13</sup> When, however, many Greeks became refugees after 1453, it is not surprising that they should have journeyed even to London. All that was needed to attract them anywhere was the possibility of getting assistance for their country or employment for themselves in their desperate straits. Before inquiring, however, what may have been the motives of the visitors of 1453-1456, we may well note any available information about their earlier careers.

<sup>10</sup> H. Wiles, *Poggio Fiorentinus Letters and Works* (Oxford, 1910), pp. 78-80; Volpi, op. cit., I, 303-14.

<sup>11</sup> *Ibid.*, pp. 304-07; Knapton, op. cit., pp. 29-33.

<sup>12</sup> T. Pares, *Manuel Palaeologus*, in E. E. Rich (London, 1881-82), I, 147; E. Schindler, *Byzance et l'Occident* (Paris, 1877), pp. 129-132; Pogg., op. cit., I, 105, note 4; E. Legrand, *Byzantines à l'étranger* (Paris, 1896), I, p. 100. In a correspondence between Rome and Constantinople which Chrysoloras sent to John, one of the emperors Manuel Palaeologus, he says that he himself is in London two years before. Another reference in Chrysoloras' letters is to his previously serious intention it was made and the date of the letter is 1 October, 1406.

<sup>13</sup> Among the Venetian merchants whom I suspect, 1456, required dispatches London in galleys appears the name of *Andronico de Constantiople*, his two colleagues being named as *John* and *John*. In the same year he travelled, too, on a Greek ship, departing Athens on 28 September, and reporting home on 28 October. P.R.C., I, 102, 72-73.



Demetrios was again in correspondence with Alfonso, once more negotiating a marriage for his daughter. Alfonso now sent an envoy to examine the Italian wall and to report on the defenses of the country.<sup>17</sup> To prevent the threatened intrusion of Neapolitan influence into the Morea, Thomas urged the Venetians to checkmate his brother's negotiations, sending to them his minister Plurasta.<sup>18</sup> Demetrios, in turn, is said to have sought support in the West and to have appointed as his envoy to the pope and to King Charles VII of France the scholar, John Argypsokeles.<sup>19</sup>

Thus in connection with an incident in the turbulent politics of the Morea, the names of Demetrios Palaeologos and John Argypsokeles were coupled in the year 1455-1456. It can, however, scarcely have been the despot himself who came to England and was given £10 in December, 1455. Apart from the fact that the visitor is described by the comparatively humble title of knight, Demetrios was not in a position to leave his principality at that time. A letter of Alfonso of Aragon, written in November, 1455, addresses him as if he were in the Morea.<sup>20</sup> Probably the recipient of the gift was a relative, perhaps a son, of the despot, bearing his name. About him as about the younger Chrysothemos, there is no further information.

Very different is our knowledge of the despot's principal envoy, John Argypsokeles of Constantinople, the scholar to whom a gift was first assigned.<sup>21</sup> His activity as a lecturer at Florence for fifteen years after 1454 was to bring him repute unsurpassed by that of any of his contemporaries.<sup>22</sup> Visitors to Florence, like the bishop of Friedleben and the earl of Worcester, made

<sup>17</sup> P. Foa, "Le politici venetiani di Alfonso di Aragon," *Studi e storie per la grande repubblica*, 1910, 107-108.

<sup>18</sup> Plurasta got out on his mission on 10 October, 1455, and returned to Thessalon 2 April, 1456. *Atti del Consiglio Fiorentino, Corpus Diplomatico Mediceo-Laurenziano* (1887) (Florence, 1905), 161. E. N. Sisson, *Documents relatifs aux origines de la guerre des Deux*, 1930, I, 100-101.

<sup>19</sup> Sisson, op. cit., p. 101. On the references given there seems to be no account of this scholar.

<sup>20</sup> Foa, loc. cit., 107-108, 109.

<sup>21</sup> The last name is G. Engel, "Per la biografia dell' Argypsokeles," *Storie e storie della letteratura italiana*, 1910, 10-11.

<sup>22</sup> "... di uomo oratore ed profeta." *Stati e storia* ed. G. C. Galvani (Florence, 1915), p. 124.

it a point to hear him. The youth of the city attended upon his teaching and Vespasiano's admiration for the brilliant Archibaldi derived in part from their happy relations with him.<sup>12</sup> Before 1458 he had been in Italy once at least. From the latter part of 1461 to 1464 he was at Padua, for a time engaged at a Manual school by Palla degli Strozzi to read Greek with him. Returning to Constantinople, he gave instruction there, perhaps at the time becoming the master of the young Laurotis who was to be an active collaborator in Italy Greek manuscripts.<sup>13</sup> Deprived of his property by the Turks, he decided to leave his family and appeal to Pope Nicholas V. Before August, 1464, he reached Florence.

Information about his movements at the time is contained in three letters written by Donato Archibaldi on the 8th, 25th and 28th of that month.<sup>14</sup> In the first Donato appeals to a friend in Rome, Jacopo Laurens, who was in close relations with Cardinal Capranica. After telling how Angyropoulos had recently come to Florence to seek papal support, he explains that he had made his acquaintance and found him erudite, wise, and worthy of Greece. Will not Jacopo assist the refugee through the cardinal, who in turn stands near the pope?

Next day Donato wrote to Angyropoulos in reply to letters sent by the latter from Bologna. He assures the scholar that he is labouring day and night in his behalf. Let him return as quickly as possible to Florence, a city fit by its beauty and amenity to be his new home. A third letter written two weeks later is also to Angyropoulos. Donato has learned that he is in Venice awaiting a ship to carry him to Greece. As a testimony that he is mindful of him he sends verses, wishes him a good voyage, and again urges his return. Together the three letters make clear that Angyropoulos, coming first to Florence from Constantinople, made the acquaintance of Archibaldi and then in the summer of 1464 went by way of Bologna to Venice where he was reported to be waiting to take ship for Greece. The writer's devotion confirms Vespasiano's remark that, when

<sup>12</sup> Vespasiano, *op. cit.*, pp. 170, 174, 175, 176.

<sup>13</sup> *Ibid.*, pp. 176, 180, pp. 17-18.

<sup>14</sup> *Ibid.*, pp. 18-19. *Apud* places the letters from a manuscript source.

Agrippolus came to Florence destitute, the two brothers Acciaiuoli relieved all his wants.<sup>20</sup>

Agrippolus' movements in Italy next become clearly traceable from October, 1448. At that time the Florentines gave him a chair in the Studio and soon he began a course of lectures on Aristotle's *Ethics*.<sup>21</sup> The interval between August, 1448, when he was waiting in Venice for the departure of the galleys, and October, 1448, when he was about to enter on his long engagement, is the period in his life which directly concerns us. Eppel, his competent biographer, tells it somewhat conjecturally. Whether Agrippolus went to Greece and when he returned if he did go, he thinks, cannot be ascertained; but in Florence he came before he was given the chair in the Studio and he probably occupied himself in the interval with private teaching.

The basis for the belief in a sojourn at Florence in 1448 is a sentence in another letter of Donato Acciaiuoli written on 24 September, 1452. It runs: "... restitui in hanc urbem Agrippolus Florentinus statim post obitum Nicolai pontificis."<sup>22</sup> Since Pope Nicholas died on 25 March, 1455, a strict interpretation of *statim* would imply that Agrippolus returned to Florence in the spring of 1455. It is, of course, possible that he did then come there only to depart quickly for England, which he must have reached before the close of the Easter term of the studies on 29 September. It is more likely, however, that Donato, writing usually seven years later, did not intend to be precise and meant little more than that no long interval intervened between two events so noteworthy in the history of scholarship as the death of a scholar pope and the demonstration of a distinguished Greek at Florence.

Though Eppel, in the absence of contradictory evidence, is reasonable in interpreting Donato's phrase precisely, he is less happy in his account of what Agrippolus did next. He describes the scholar as being at Milan in May, 1456, probably

<sup>20</sup> Vaghianni, p. 25.

<sup>21</sup> T. More, *Discorsi del Cardinale e Maestro de' Cardinali Politecnico* (London, 1887-89), II, 75-76.

<sup>22</sup> Eppel, p. 28, note 4.

enjoying the hospitality of Fillo, and about to depart for France to beg the assistance of Charles VII. Perhaps provided with letters from Francesco Sforza he made the journey across the Alps; and that it was not unwarded may possibly be conjectured from our finding him soon afterward surrounded by his family in Florence. Other writers have misinterpreted the evidence at this point. Klett thought that Angyropoulos did not actually make the journey to France, and Voigt that he went to seek, but in vain, a post at the French court.<sup>1</sup>

The evidence upon which Zippel and his predecessors rely in describing this journey from Milan to France is contained in two letters of Fillo written from Milan respectively on 17 May and 24 May, 1458. The first was addressed to Thomas Francis at the French court,<sup>2</sup> the second to Donato Acciaiuoli at Florence. In the former, of which Angyropoulos was to be the bearer, he is introduced in the following words: "Cum adhuc in pharioque sala hachymachem servationem ager agud barbarum illum humanitatem nationem, tunc vel humanitatis vel afflicti esse videtur et quidemque in nobis potius te in hanc talem et tantum tunc et plura prout. . . ." In the letter to Acciaiuoli, Fillo explains: "In, a principe nostro perhominiter perhominiter tractatus, tractatus et in nobis, videtur et tunc ad constitutionem tempus." And he adds praise of Donato and other Florentine youths "quod talem tantumque et tunc tunc et pharioque gressu [sic] talis instructis clarissimis profectus." <sup>3</sup> If it is permissible to see in this last clause a hint of the approaching appointment of Angyropoulos to the chair in the Studio, the happy decision must have been made as early as May, 1458.

Where, meanwhile, was the Greek scholar? Fillo's second letter makes clear that the journey across the Alps had been undertaken and implies that it had not yet been finished. It does not necessarily imply that Angyropoulos had only recently

<sup>1</sup> Zippel, p. 26; Klett, op. cit., II, 74.

<sup>2</sup> Identical this day with Thomas Courtenay, physician to the French king (see vol. II, p. 146). He must have been a Greek since Fillo, writing from Milan on 12 Dec. 1458, mentions letters for "Thomas Courtenay, medicus regis nostris" (*Opuscula*, ed. 17).

<sup>3</sup> *Ibid.*, III, 74, quoted by Zippel, p. 26, note 1.



set out, or that he had set out from Milan, or that the journey had been by land. *Ad transiplace* was a generic term for the north, and cordial antiochian treatment by Shown does not insure that Milan was a point of departure. The letter to Thomas Francus is more informing. Agrippolus is rejoining with a barbarous and uncultivated nation and confesses this multitude *de pluribus nati*, in company with several of his countrymen. The implication of the remark about a barbarous nation has escaped the scholar's biographers, since, of course, they had no clue with which to interpret it. Neglect of it has led to the ungrounded inference that Agrippolus was in Milan in May, 1466, about to set out for France.

At this point the English documents supplement and explain Fiebi's letters. In May, 1466, Agrippolus was without doubt in England, since on the following 12 July he was paid £10. Inasmuch as the writ authorizing the payment was issued during the six months which preceded October, 1466, he may well have been resident there for about a year. Gifts to three other Greeks had been authorized and paid during the year in question. Perhaps there were in England still other Greeks than the four so mentioned, as the phrase *de pluribus nati* might imply. The delay in the payment of the first gift suggests that the government was not able, or perhaps not inclined, to do a great deal for the visitors and that the four payments were exceptional. If Agrippolus had complained to Fiebi about the delay in the payment of his promised £10, the latter's disparaging remark about the "barbarous nation" would be explained. Thus, instead of conflicting with Fiebi's letters, the English documents put them in their correct setting and clear up misapprehensions arising from their cryptic language.

Agrippolus was not, then, in Florence or in Milan from the summer of 1465 to the summer of 1466. At some time after August, 1466, he left Venice and by the next summer, at least, had reached England.<sup>12</sup> In the interval he may have gone to

<sup>12</sup> If he took passage over on a Venetian galley he could have reached England at the end of the year. The galleys usually reached Southampton, Newcastle or London between October and December. They reached London on 7 October in 1466, on 12 October in 1467, on 20 November in 1468, on around 20 June in 1469, Hamburg, on 11 December in 1469, Southampton, on 2 October in 1470 and 12 June in 1471. F. Beck, *l. cit.*, pp. 16, 17, 18, 19, 20, 21, 22, 127, 128, 129, 130.

Greece, as report had it that he was about to do. He may, at the time, have received from Demetrios Palaeologus, despot of Mistra, a commission to secure support from the pope and from the king of France; and to this end a relative of the despot may have been associated with him. There is, however, no evidence that Agropoulos visited France before going to England and Philby's letter of May, 1488, suggests that this mission was only then undertaken.<sup>10</sup> Some inducement must have led the Greeks to set out first for England, and the impulse may have been what they had heard about the English attitude toward assistance for the East.

As early as July, 1484, Henry VI had taken action to relieve distressed Christians in their struggle against the Turks. Supported by the council, he had given out to a petition of the "Greek Master of the Hospital of Saint John of Jerusalem in Rhodes" that he grant an *Avenas* Jubilee in England in Lent next coming, the proceeds to be used in defense of the Christian faith. Letters embodying the request and asking support were dispatched to the pope, the cardinals, the emperor and the Venetians.<sup>11</sup> Not only was papal assent given but Callistus later anticipated the paying over of the proceeds. On 1 September, 1484, he gave bond to Peter and John de' Medici and fellow merchants following the Roman court for 8000 gold florins then advanced. They were authorized to obtain and export the said sum from the moneys of the indulgences of the year of Jubilee which had been granted in England by Nicholas V, whether these were in their own hands or in the hands of others.<sup>12</sup> Again on 29 December, 1485, Callistus acknowledged a loan of 2000 gold florins advanced to assist "in the preparation of the fleet which is being formed against the Turks." The

<sup>10</sup> *Op. cit.*, vol. p. 81.

<sup>11</sup> *Letters . . . of T. Bruce* (London, 1794-1815, at 451-452, 14 and 26 July, 1484, the 8 July, 1485, Bruce had granted an amnesty of 40 weeks for Poole. "Greece de Ybelis in periculofuerit" who had been raised by Peter and Thomas (1807, 1, 174). The loan reflects that the amnesty was paid in full to make for some six years.

<sup>12</sup> *Calendar of the Records in the Papal Archives relating to Greece* (London and Oxford) Papal Letters (London, 1889-1, at, 15. If the revenue from England should prove insufficient, further payment was to be had from the Turks' property, or to be loaned, in France. If the money was still unpaid from England and France after six months, the debt was to be met from the revenues of the treasury.

mediator was Vincent Clement, ambassador of the pope, and collector of the papal camera in England; the money was described as his own, paid by the hands of the Medici and other merchants of Florence who followed the Roman court. It is possible that this acknowledgment represents the shifting of the earlier obligation, reduced by 1000 p. p., from the bankers to the papal collector. The latter is authorized to retain his collectship until fully satisfied.<sup>10</sup>

Thus in the spring of 1446 England was contributing to the fitting out of a fleet against the Turks. Between July, 1444, when the Jubilee year was authorized, and the following Lent, when it became effective, one or two papal embassies set out for England. A motive for sending them may have been a desire to stimulate interest in the cause which the pope had at heart; and with one or the other of them the Greeks may have associated themselves.

On 24 November, 1444, Henry VI and his council issued letters of safe-conduct for Bartholomew Eusebio, archbishop of Ravenna, accompanied by one hundred familiars, to journey to England or to Calais. At the same time Charles King of Aragon was sent "beyond the Sea to meet and conduct the Right Reverent father in God . . . sent by the Pope unto this land."<sup>11</sup> Touching Bartholomew, Vespasiano relates that Pope Nicholas, who created him an archbishop, sent him on direct missions, in which he always won high favor.<sup>12</sup> What this embassy accomplished if it reached England does not appear.

Calixtus III soon after his accession, issued on 15 April, 1455, a safe-conduct for one of his representative men, Antonio de Boon Prioris, and five companions to visit England on papal business.<sup>13</sup> The embassy reached London before 15 July, on which day Antonio was paid £28 from the exchequer as a gift.

<sup>10</sup> Calendar of the Entries to the Papal Registers relating to Great Britain and Ireland: Papal Letters (London, 1929-31, ed. p. 88). On 29 September, 1444, the pope, in possession of letters addressed to all princes and nobles, notified princes of his. From all Turkish, or Islamic states in England to abstain help from King Henry against the Turks (ibid., p. 141). It may have been in connection with money provided to Nicholas that Vincent Clement acknowledged the debt.

<sup>11</sup> *Ibid.*, ed. 806; F.R.O.S. 1444/55, vol. 27, item 1.

<sup>12</sup> Vespasiano, p. 142.

<sup>13</sup> Cal. Pap. Reg., 2, 5.

from the government.<sup>12</sup> Although he may have come merely to announce the accession of the new pope, the mission may not have been unconnected with the success of the indulgence which was in process of collection; and, since Aggeopoulos, who was deeply interested in the cause of Eastern relief, reached England as early as the spring or summer of 1455, it is possible that the Greek journeyed with this or with the earlier papal mission. Whether he did or not, his knowledge that Englishmen were taking the lead in making sacrifices for the Christian East may well have led him to visit England. His presence and that of his fellowers would tend to stimulate interest in their cause.

Apart from patriotic or political motives, however, may not some of the Greeks have been led to England in the hope of finding there patrons who would make it worth their while to remain? And, if so, what Englishmen were reputed to have, as Duke Humphrey had had, an interest in classical scholarship, including Greek thought and letters? Could it, in the first place, have been the king? Taken of Henry's generous and scholarly temperament must have reached Italy before 1446, for the Roman court had during some years after 1440 been plying with requests for bulls touching his new colleges.<sup>13</sup> To judge from the attention given them in almost every sort of government record, nothing was so dear to the king as Elton College founded in 1445, and St. Mary and St. Nicholas (the later King's) founded at Cambridge in 1447.<sup>14</sup> At least it seemed well to go to a realm where the ruler's first interest seemed to be the promotion of learning. While, however, Henry's reputation may have been not without influence on the Greeks, it must have been known in Italy that since the autumn of 1445 his mind had been so decided that the administration was in the hands of a regency. To the extent as to some members

<sup>12</sup> P.P.C., I, 408-409, 10 Feb. 1455. "Antony Bevon Petros, apostolic of some Roman Pope (apostolicus) whom Benedictus Regius cum filio suo et fratre a dicto Summo Pope."

<sup>13</sup> *Correspondence of Thomas Becket*, ed. G. Willems-Groen, 1875, I, 195-202, 278-282, II, 275-281.

<sup>14</sup> *Cal. Pat. Rolls, 1445-1455*, pp. 348, 381. *Ibid.*, 15 October, 1455; *Regis. 12 February, 1451.*

of his counsel appeal would have to be made if assistance was to be got. There is no reason to suppose that the regent, the duke of York, was interested in humanists, either before 1444 or afterward. With the council, however, the case was different and it will be recalled that two of the gifts to the Greeks were given with the advice of the council. The members of this body who, before 1444, had shown an interest in learning were William Grey, bishop of Ely, and William Weynflete, bishop of Winchester. A third, John Tiptoft, earl of Worcester, was later to appear in Italy as scholar and patron. Finally, Andrew Holco, the keeper of the privy seal from 1428 to 1429, had a few years before been in close touch with Italian humanists. Of the four, Holco and Grey were in 1444 best known in Italy. Vasquianus wrote an extended life of each.<sup>47</sup>

Andrew Holco, whose name also appears as Holco, Holo and Olo, and has been modernized as Holko, resided in Italy in the days of Humphrey of Gloucester. A papal dispensation of 14 February, 1446, reviving two earlier dispensations which commended his benefices, describes him as of knightly and noble lineage, as having taken the degree of canon law at Padua with an examination, as successively chamberlain and arch-chancellor of the pope, and as, at the moment, king's procurator at the Roman court.<sup>48</sup> On 25 February, 1447, he had been appointed king's procurator and this post he retained for nearly eight years.<sup>49</sup> Vasquianus, describing him as procurator of the king and as

<sup>47</sup> Vasquianus, pp. 294, 304.

<sup>48</sup> *Lat. Pap. Reg.* 10, 12-14. The benefices were the archbishopric of Andover, the episcopal church of St. Dunstons in the East, London, and subsequently in the diocese of York and Lichfield. The dispensation limits the exemption to one. When born, in 1410, when Holco was "in childhood," he obtained his education from the papal curia, obtained offices of his youth. . . . Hence there was his obligation, in order to hold two benefices, that he was of knightly birth, whereas his father, although noble, may not have been a knight at the time of his birth. . . . Holko, therefore, at the time of his appointment to the archbishopric of Andover, stated that he was in his twenty-fifth year, whereas he was barely in his twenty-second. Lastly, inasmuch as he had obtained a licence from the archbishops that on account of the studies by which he was engaged, he should not be promoted before unless with their assent, and was not approached for benefices until his twenty-third year, in 1433. . . . His archbishopric, archbishopric of Andover in 1437, he must have been born in 1314 (J. LaVine, *Papal Dispositions* [Baltimore] 1904) 2, 120. The studies mentioned were a period of at least seven years.

<sup>49</sup> *Latin* 10 December, 1446. The earliest date is given (*P.L.H.*, II, 200, 201, 12 November). In 1455 he was given the chancellorship which situated St. Mary's, Oxford (LaVine, II, 202).

acolyte to the pope, speaks of his reputation for learning and of his holy and temperate life. For two or three hours daily he was locked in his chamber in prayer and he gave up the English custom of sitting four hours at table, adopting instead the Italian fashion of taking only one dish. Above all he was a collector of books, keeping many scribes occupied in copying manuscripts. When Pope Eugenius left Florence at the end of 1443, Hales remained to build up his collection, which became so large that it had to be sent to England by sea rather than by land. Though he could have been a bishop or a cardinal, Eugenius insisted, he preferred to have done with the papal court and to return to England, where, putting aside secular affairs, he could betake himself with his books to a hermitage.<sup>14</sup>

Hales probably returned to England some time during 1444, his surname being appointed in November.<sup>15</sup> Until 1450, he may have succeeded in living the retired life which he desired.<sup>16</sup> On 21 January of that year, however, he was appointed to succeed the late unpopular keeper of the privy seal, Adam Moleyns, the first victim of the revolt then threatening.<sup>17</sup> As privy seal he was sent in June by the council to confer with Cade.<sup>18</sup> Hales, therefore, assumed office as member of a reforming administration, played an important part in a crisis, and continued to be head privy seal for two years — until 18 May, 1452.<sup>19</sup> The wage-draw from the exchequer was the liberal

<sup>14</sup> *Vespasiana*, p. 286.

<sup>15</sup> Cf. *Letters*, p. 76. He had been selected to be archbishop of the West Riding of York, 10 December, 1443 (*Letters*, II, 146).

<sup>16</sup> In November, 1447, he was designated along with the Archbishop of York, keeper and official supervisor and custodian of the treasure of the treasury of Exchequer in the absence of Salisbury, of late recently deceased (174. *Pol. State*, 1447-1450, p. 287).

<sup>17</sup> P.R.O., E. 405/719, 20 October, 1450. *Parliament of 1450 in Master Andrew Hales*, where the king on 26 January had appointed keeper of the privy seal of the treasury after the death of Adam.

<sup>18</sup> P.R.O., *Inner Roll*, E. 405/719, 26 June, 1450. "Magistrus Andrew Hales, clericus, noster pater et officialis Regis regis, ubique per archidiaconum nostrum Regem ad legationem suam speciat in curiam regiam, Londoniam . . . per litteras et litteras." He received on the same day another such payment of £20 as "magister noster curiam Regiam et archidiaconum nostrum regis ubique ad litteras de curia et curia . . . Regis." *Ibid.*.

<sup>19</sup> By then the Master Thomas Lestre was given the custody of the privy seal (*Ibid.*, E. 405/720, entry of 26 July), but Hales was still keeper on 12 February (Cib. *Pol. State*, 1451-52, p. 289).

one of 1282 yearly.<sup>12</sup> If, therefore, information about the later career of the one-time king's poet came to Italy, it was to the effect that he had come to hold a high and well paid office of state. Already known as an ardent bibliophile, he may in 1444 have appeared to expatriated Greeks in the light of a possible patron.

More likely, however, to have raised their hopes were the reports and position of an English heraldet whose career was at the moment vivid in the minds of all Italians; for only a year or two before, Duke's successor at the Roman curia, William Grey, had terminated a long and remarkable sojourn in Italy. The date of Grey's birth and the identity of his parents are in doubt. Born probably about 1408,<sup>13</sup> a papal disposition refers to him as of a race of barons and Visconti with some reason declares him an Englishman of the royal house.<sup>14</sup> Trained at Balliol, he acquired various functions, including the archdeaconry of Northampton, and between 1440 and 1442 was chancellor of Oxford University.<sup>15</sup> Before he held the last office he seems to have studied for some years at Cologne; certainly after 1442 he resumed his studies abroad. At Cologne he had devoted himself to logic, philosophy and theology; but, having mastered those subjects and being eager to learn something of the humanities, he now came to Italy.<sup>16</sup> After reminiscing

<sup>12</sup> *Pal. Pap. Lat.*, 1282-1283, p. 48.

<sup>13</sup> He held a priory in St. Paul's as early as 1435, and he died in 1475 (*Letters, R. 4th. Ser.*, cf. *History of Pastoral Biography*).

<sup>14</sup> *Pal. Pap. Lat.*, ix, 5, Visconti, p. 124, in 1478. Grey is called a *fratello* of Edward IV (*Pal. Pap. Lat.*, 1477-1478, p. 107) cf. *Ann. Nat. Sup.*

<sup>15</sup> *Letters*, p. 405, *Pal. Pap. Lat.*, 1461; *Letters*, ii, 407.

<sup>16</sup> Visconti says that his parents sent him to Cologne where, well supplied with money and books, he lived for some years. From Cologne he came directly to Florence. Visconti allows for reasons as he journeyed, he left in disguise and in disguise Florence sent her Visconti to tell him about his adventures (op. cit., p. 124). From one difficulty in reconciling this statement a manuscript agrees about with Grey's being chancellor of Oxford in 1440-1442. If there were years of study at Cologne, Grey must have been before 1440, since the chancellor's university was usually inaugurated as such by the pope on study abroad; yet Visconti does not relate that Grey returned from Cologne to become chancellor before he undertook the Roman office. Edmund as Visconti was born in 1407 and must have been more than twenty years old when sent to be a student; hence, Grey's contact with him in Florence necessarily have been earlier than 1428. The only hypothesis which makes Visconti credible is to assume that there were years of study at Cologne before 1428 and a real visit there on the way to Florence in 1440.

Vergadano in Florence to transcribe many books for him, he went to Padua to study, and later to Ferrara to learn Greek. Wishing to have in his house a young man of letters, he invited thither the eager but poor young scholar, Nicolo Perotto, who now took up the task of getting books transcribed for his patron — a great number in the classics, in philosophy, and in theology. Since Grep had collected books in Calogno, Florence, and Padua, and was to collect others in cities which he visited, the outcome was a noble library, later given to Balliol College.<sup>10</sup>

After "several years" spent in study at Ferrara, relates Vergadano, Grep was bidden to go to Rome as the king's procurator. At this point our chronology becomes more sure; for the writ of proxy appointing him to this post bears date of 18 November, 1444.<sup>11</sup> The years of study at Padua and Ferrara must, therefore, have been about three. During the next eight years, a period corresponding pretty closely with the pontificate of Nicholas V (1447-1455), Grep was the representative of England at the papal court.<sup>12</sup> In growing favour with the scholar-pope, he is referred to in 1448 as apostolic notary and intermediary, posts which he continued to hold until 1454.<sup>13</sup> On 21 June of this year, through a combination of royal and papal favour he was nominated to be bishop of Ely and on 8 September collectors were instructed to deliver to him the temporalities of his see.<sup>14</sup> In the line of busy translation which Rome became under Nicholas V, Grep had done at least one thing to promote the study of Greek. When Perotto, accompanying him from Ferrara, wished to perfect himself in this language, he secured for the young man a reception into the household of Cardinal Bevilacqua. From this, writes Vergadano, sprung

<sup>10</sup> Vergadano, p. 100.

<sup>11</sup> *Cal. Pat. Bolls*, 1444-1455, p. 395.

<sup>12</sup> On 26 January 1446 he was nominated archdeacon-general with Master Henry Maye, both receiving royal commendation for service in relation to Eton college (ibid., 1445-1446, p. 170). On 18 December, 1446, he was re-nominated king's procurator (ibid., p. 394). On 1 November, 1448, Thomas Cheneat was appointed to succeed him (ibid., 1447-1452, p. 109).

<sup>13</sup> *Cal. Pap. Reg.*, v, 14, 105, 106, 123, 125.

<sup>14</sup> *Ibid.*, v, 105; *Cal. Pat. Bolls*, 1445-1455, p. 394. He had been provided with the see of Lincoln on 27 December 1445 but never received it as the following 4 May without having first presented (*Cal. Pap. Reg.*, v, 106, 107).



Paschal's rich harvest of Greek scholarship.<sup>10</sup> Perhaps there were other ties between the well-born Englishman and the Greek cardinal.

Returning to England, probably in 1444, Gray at once began to play a political role.<sup>11</sup> On 15 November of that year he was one of the twenty-nine members of a great council who signed the ordinance then "concluded" for the regulation and reduction of the king's household.<sup>12</sup> On 4 March, 1445, he was a member of the king's council and of a commission appointed to arbitrate between York and Somerset; from the end of the year he appears frequently among the king's councillors.<sup>13</sup> During the period, therefore, when gifts were given to the Greeks, Gray was bishop of Ely and a member of the council of the regency which for two years carried on the government while the king was ill or captive.

Whether a reference upon Gray's patronage was one of the influences which induced the refugees to come to England can only be conjectured. In the autumn of 1446, when Argensola was in Venice, awaiting passage for Greece or for England, Pope Nicholas had already fallen into ill-health. His sufferings rendered him difficult of approach and he died on 15 March, 1446.<sup>14</sup> Upon him Argensola had primarily relied in coming to Italy. Now that hope in him was vanishing, it might be well to reflect, not only that an indulgence for the East was on the point of being collected in England, but that one of the pope's closest associates, an Englishman of noble birth, king's preceptor for years at Rome, of considerable reputation for philosophical and classical learning, interested in Greek scholarship and perhaps intimate with Bessarion, had recently returned to his native land to fill high posts in church and state.

<sup>10</sup> *Prepositions*, p. 144.

<sup>11</sup> In 1444 he had procured to England a papal letter appointing to bring the pallium to the newly elected archbishop of Canterbury (*Ibid.* *Prep. Hist.*, v, 490).

<sup>12</sup> *Proceedings and Ordinances of the Great Council of England*, ed. Sir R. Nicholas (London, 1884-87), iv, 400.

<sup>13</sup> *History*, vi, 545-588; *Proceedings*, p. 494 (*ibid.* *Proc.*, 1445, pp. 474, 475, 476, 480 et passim). Although members of the council are almost everywhere between Somerset, York and August, 1446, it is likely that Gray was a member of that body throughout the year, as he continued to be throughout 1446.

<sup>14</sup> L. Duchet, *History of the Popes*, Eng. trans. (London, 1897), I, 2, 395, 394.

Greeks may have held out some inducement for the Greeks to follow him; even if he did not, the prospect was not without promise. The new bishop of Ely was, along with Andrew Holen, the Englishman who in the years 1454-1456 could best appreciate the new humanism.

If it may be conjectured that some of the Greek visitors came to England partly in the hope that they would find those sympathetic and influential patrons, it remains to inquire whether their visit had results beneficial either for themselves or for Greek scholarship in the island. As for themselves, the royal gifts were not large, were not repeated, and were not the prelude to annual stipends.<sup>10</sup> Continuous support could have come only from a patron or from employment in a university or college. *Agapayalos*, despairing of assured income and with friends and property in Florence, made haste to return. *Idikios* in 1458, as an episode in his career the visit is of interest and his reports about England must have become current among humanists. About *Demetrios Palaeologos* and *Manuel Chrysolaras* information is wanting after, as well as before, 1458. But about the activities of the fourth visitor, *Eusebios* of Constantinople, enough can be learned to make clear that he remained in England and was perhaps not without influence on the development of scholarship there. The ten marks paid him, it will be remembered, passed through the hands of the bishop of Winchester. At the moment, as it happened, the bishop was establishing his new foundation, Magdalen College, and later traditions had it that he provided for the study of Greek.<sup>11</sup> That there may have been, through the bishop, some connection between the Greek visitor and the new study is at once suggested; and we are led to inquire what can be learned about the matter. As prelude to an answer, a summary of accepted views about the beginning of the teaching of Greek in England is apposite.

As possible teachers of Greek in England before 1460 three men are usually mentioned.<sup>12</sup> In this year *William Grocyn*,

<sup>10</sup> *Idikios* (perhaps the same), had on 20 April, 1458, been given an annual stipend of ten marks per year, which on 1 May 1460 was increased to 20 (the ed. of *For. Disp.*, 1559-1561, no. 594, 602).

<sup>11</sup> Cf. *Idikios*, p. 126.

<sup>12</sup> *Lectures in the late sixteenth century* the University admitted to the Palace School.

who had come to New College as a fellow in 1482, went to Italy. Returning thence in 1481 he straightway began to lecture on the subject at Oxford.<sup>22</sup> There is reason to think, however, that before he went to Italy he was not without knowledge of Greek — was, indeed, already teaching it, however imperfectly.<sup>23</sup> His instructor in the language before 1480, it is agreed, was a Italian scholar named Cornelio Vitelli, who came to New College as “professor” not later than 1473. Since Vitelli did not return to the continent until 1489, Grocy may have been under his instruction for thirteen years at most.<sup>24</sup> The weak point in the argument is the absence of specific contemporary evidence that Vitelli taught Greek. All that we know about his teaching, apart from Leland’s calling him professor of New, is contained in a sentence of Polydore Vergil. Observing that William Lily on his return from Italy was the first Englishman to teach letters in England[?], Polydore adds “ante, enim Cornelius Vitellius, homo Italianus, Caroli . . . regis regibus quidem primis Graecis literis Verbo innotuit eruditus.”<sup>25</sup> It is possible that to Polydore *homo Graecus* included Greek as well as Latin letters. In his opening sentence of this brief account of

but in that severely logical or philosophical (by considering "Lectures") lecture, "that now we (philosophers) now study in the original language the works . . . of Greek philosophers." It is rather that the Editor has followed his Editor's lead. "When these philosophers . . . have expressed views of nature and man, we have translations and notes on it, printed in Latin and Greek letters" (*Epistola Academica*, Paris, ed. H. Haase [1902], pp. 1-2, 10-11).

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

[illegible]

<sup>10</sup> *Sturges*, pp. 336-337. Sturges knew that this left-hand copy of *Rehoboth*, where he had in 1760's opening letters an archaistic anachronism, was made in 1775 by John Channing, whom he had already identified as author of *Sam*. Actually, Ireland was writing a sketch of Thomas Channing, an account from which most of the biography *Sturges*, pp. 338-342, and much of the sketch about the Channing name. Thomas Channing, who became pastor of First Church, last, resigned the ministry in 1818 (*Sturges*, II, 204).

\* *Journal of Family Psychology*, 2008, 22, 100-107.

the spread of learning from Italy to the North, he says, "Dilectis temporibus perfectae litterae abhinc Latine atque Graecae . . . non trans Alpes . . . effuderunt."<sup>6</sup> At least, however, the statement about Vrelli is general and apocryphal, warranting little more than a possibility that the Italian taught Greek at Oxford. If he did, not only Greeyn but also Linacre, who went to Oxford about 1490, was elected fellow of All Souls in 1494, and left for Italy next year, may have learned from him; or, of course, Linacre may have learned from Greeyn.

Both Vrelli and Greeyn as perhaps the first teachers of Greek in fifteenth-century England it has been customary to place William Selling or Celling. As a young man Selling left his monastery at Canterbury, Ireland relates, to study the liberal arts at Oxford, and acquired no little renown before he returned. Day and night Italy was before his eyes. Getting permission from his superior to go thither, he was soon eagerly studying civil and canon law at Bologna and arguing not without mature judgment. At the time, however, Politian was at Bologna using the mass of letters. With him Selling became intimate, took an interest in things Greek (prociat) and industriously acquired many Greek exemplars. He showed equal care in collecting Latin authors, including no standard codices. With these treasures he returned to Canterbury where, because of his reports, he was chosen to be head of his monastery. Later, Henry VII sent him to Rome as his orator. On this journey he took with him Thomas Linacre, leaving him at Bologna to study with his old friend Politian. Soon after his return he died. In a list at Canterbury many of his books were learned. The *Commentaria Graeca Opera de Prophieta*, however, were marked out half-burned, while wholly safe were Basilii de *Enchiridion* Magni *Commentarii*, Spanish Opera, and other Greek codices.<sup>7</sup>

None of the events described by Ireland can be dated from other sources, but not without possibility. Care is needed to distinguish the Selling of his biography, who was a monk of Christ Church, Canterbury, from another William Selling, a

<sup>6</sup> *Op. cit.* p. 251.

<sup>7</sup> Ireland *op. cit.* 255-256.

contemporary and, from 1424 to 1426, abbot of St. Augustine's, Canterbury.<sup>17</sup> Even after this distinction is made, Leland's account does not entirely accord with other available information. William Selling of Christ Church is said to have been admitted as monk there in 1418 and some four years later to have been studying at Oxford, whence he wrote eloquent Latin letters to his prior.<sup>18</sup> Since he celebrated his first mass at Canterbury in September, 1420,<sup>19</sup> and must then have been about twenty-five years old, the Oxford residence may belong to the decade of the 1410s. He is apparently the William Collyng, a Benedictine, who on 7 February, 1428, supplicated for the degree of B.D.<sup>20</sup> He probably continued his studies for some years after this, for it was not until 1431 that he was granted leave of absence for three years to study *ubi studium erat generale*.<sup>21</sup> Although the phrase does not necessarily imply that he intended to study abroad, the records of the University of Bologna show that he took a degree in theology there on 22 March, 1438.<sup>22</sup>

While dates thus far assigned to Selling's activities accord with Leland's account, difficulty attaches to the antiquary's statement that it was Politian, then resident at Bologna, who turned the English monk from law to letters. Politian, born in 1444, can scarcely have exerted this influence at the age of twelve or thirteen.<sup>23</sup> If it was he who inspired in Selling a love for classical learning, as Leland's remark about the extracting of Livy for an old friend would further imply, the ascription

<sup>17</sup> *Cal. Pat. Bolls*, 1427-1427, p. 105, 106, 127-128, p. 105. A card *Summe* of 8 November, 1429, recorded letters-patents to bridge ports for two years, composed by one monk and four clerics. The card mentions only the prior of Christ Church that he would not at Rome or elsewhere use the sealings prohibited to the Pope or his subjects (Cotton Chetwode, ed. A. W. Haggard [London, 1898-99], ix, 182-183).

<sup>18</sup> *Christ Church Letters*, ed. E. B. Haggard (London, 1877), pp. 102-103, 103, 104. The letters thus put give his last entry for the year 1420 and for dating the letters ca. 1420. Thomas Chetwode, to whom they were addressed, resided from 1407 to 1420 (ibid., p. 105). The letters may have been written somewhat after 1420.

<sup>19</sup> F. A. Gasquet, *The life of St. Bernardine*, introd. London, 1900, p. 21.

<sup>20</sup> C. W. Ross, *Register of the University of Oxford* (Oxford, 1892), p. 11.

<sup>21</sup> *Cal. Chetwode*, ix, 104.

<sup>22</sup> G. Bianchi, *Memorie storiche upon l'Università e l'Università della città di Bologna* (Bologna, 1825), p. 100. Quoted by Gasquet, *loc. cit.*

<sup>23</sup> G. Chavaler, *Recherches sur les sources littéraires de l'époque des Bénédictins* (Paris, 1977).

never must belong to later years. In October, 1493, Selling, with a fellow-monk, received letters of recommendation to take with them on a journey to Rome.<sup>17</sup> How long he stopped in Italy and whether he then met the still very young Politian is not known. He may have visited Padua as well as Rome.<sup>18</sup> Before 1494 he had returned to England, and in that year was elected prior of Christ Church.<sup>19</sup> If much credit is to be given to the story of the friendship with Politian, a third sojourn in Italy soon after 1493 may be inferred.<sup>20</sup> The last Italian journey, undertaken to announce the accession of Henry VII to Pope Innocent VIII, and noteworthy as giving Lincoln an opportunity to visit Italy, belongs to 1492-1493. For twenty-two years, until his death in 1514, Selling governed his house.

Such a career connects Selling with the study of Greek, and there is a tradition that he introduced the teaching of it into fifteenth-century England. It is clear that soon after 1494 he had, while in Italy, interested himself in the language and had acquired several Greek exemplars. There were Greek manuscripts in his library at the time of his death in 1514. That he became a Greek scholar is perhaps implied, for, although his academic pursuits in Italy were not unlike the earlier ones of Holen and Grey, he differed from them in collecting Greek as well as Latin authors. His monument in Canterbury cathedral designates him "Doctor theologus Selling, Graeco stygo Latina lingua perdoctus"; an obit in a Christ Church MS. refers to him as "lingua Graeca et Latina valde eruditus"; and another Canterbury obituary declares him "Latina quoque et Graeca lingua sporula institutus."<sup>21</sup> Less convincing is the statement of William of Worcester, who records rules "de certis terminis grecorum in grammatica declaratis per doctorem Selling Rectoris Christi Cantuariensis" and proceeds to give only definitions of Greek rhetorical terms.<sup>22</sup>

<sup>17</sup> *Ibid.* *Chron.*, II, 463.

<sup>18</sup> In a Canterbury manuscript of 1490 is written Selling "cum se studiis et doctrinis Periturus et vixit Romanam urbem venit." (*Christ Church Letters*, p. 106).

<sup>19</sup> *Ibid.*, p. 105.

<sup>20</sup> In P. v. Arden, in *Proc. Soc. Mus.*

<sup>21</sup> *Canter.*, op. cit. II, 463; *Canter.*, op. cit., p. 46, note 1; E. T. Tupper, *Philobiblon Britanica*, ed. Bibliotheca Cantuar., 1905, p. 106.

<sup>22</sup> *Canter.*, 465; *Julian P.*, VI, col. 136. *Canter.*, observes this reference without quote.

Between 1474 and 1484, therefore, the prior of Christ Church was a scholar who probably knew Greek. He may have learned the study of Greek in the monastery school and library may have learned the elements of Greek there as well as at Oxford, whether he went in 1478. But the actual evidence about Selling's teaching is slight;<sup>10</sup> and Christ Church was a place less favorable for the introduction of Greek study than was Oxford. These were the days when the monasteries, relinquishing the trend of education to the universities, were themselves establishing halls of residence in them for their younger members. Christ Church had itself banded Canterbury Hall at Oxford and letters of 1478 are concerned with benefactions in its behalf.<sup>11</sup>

Less distinguishable than the evidence regarding the influence of Selling, Vitell, or Gregory in introducing the study of Greek into England is information about a fourth scholar recently brought to light; for Dr. James has been able to identify the author of certain Greek manuscripts which hitherto have mystified students. Longest known is the so-called *Leidenster Codex* of the New Testament, the property of the borough of Leidenster. In 1887 Dr. Wendel Haver described the peculiar fifteenth-century hand in which it is written and argued that, like a portion of *Codex Bezae Cantabrigie*, written in the same hand, it belonged, before the dissolution, to the Franciscans removed to Cambridge.<sup>12</sup> By 1890 he was able to identify three other

fragments, in 15<sup>th</sup> handwriting "probably genuine" as "certain Greek translations" and "certain Latin portions" as genuine knowledge of the Greek language on the part of Selling than is revealed by the text.

"When after his accession, he came to the archbishop that he had 'provided for a subdiaconus for your grace's school in Cantuariis, the which hath lately taught among us Wyndesore and other hand. Incomen to Leidenster'" (MS., B. D.). There is no mention of Greek.

<sup>10</sup> J. H. Prynne, II, 497, 498. It had been founded in 1378 and rebuilt about 1470, after the dissolution, *pro novo*.

<sup>11</sup> J. H. Prynne, *The Origin of the Leidenster Codex of the New Testament* (London, 1890), pp. 4, 10, 16. The hand, which was named according to a few lines and is characterized by a somewhat 4, the Greek word written vertically, and by some confusion in the lower range. The argument turns upon the similarity of the *Codex* pattern by Richard Blydenburgh about manuscript written in it. He was a member of the Franciscan house at Cambridge and among the last provincial masters of the order in England. Further, in the binding of this portion, one has been made of a ribbon bed which may well be from an ancient book of an East Anglian monastery. The *Leidenster Codex* may be traced back to the hands of a group of monks who were carrying studies in Cambridge, see Prynne's *Chesham*, and Dr. Haver's suggestion that it, too, belonged rather to the Franciscans there.

manuscripts as written in the same hand, as Aristotle and a Plato, both in the chapter library of Durham cathedral, and a psalter in Trinity College, Cambridge.<sup>18</sup> Since then there have been added to the group a psalter and part of the Gospels of Suidas, both now in Corpus Christi College, Oxford, and a nearly complete Suidas given by the Chapter of Durham to Lord Oxford and now in the British Museum.<sup>19</sup>

Identification of the writer of these manuscripts came with Dr. James' discovery at Leyden of a Demosthenes which has a colophon in the hand of the Leicester Codex noting that the MSS. was written in 1408 "by one Romanus of Constantinoople" and given to George Neville, archbishop of York.<sup>20</sup> Although the identity of the scribe was thus revealed, the texts from which he copied and the place in which he resided when he did so have not for the most part been ascertained. The Leicester Codex has as prototype one of a half-dozen MSS. of Suidas or Caladrian origin, none of which is or has been in England.<sup>21</sup> The two copies of Suidas now derive from a manuscript now belonging to Genoa.<sup>22</sup> The classical MSS., it is conjectured, may belong to the period before Neville's deportation to Calais in 1476, the psalters to a later period, when some of his household found their way to Cambridge. The connection of the Calais psalter and the Leicester Codex with the Franciscan convent of Cambridge forms a link for the latter surmise. Whatever the unaltered problems, the significance of the presence of a Greek scribe in England before 1476 has been recognized.<sup>23</sup>

<sup>18</sup> Harris, *Further Hellenization in the History of the Fourteenth Century*, 1890, pp. 42-44. The content of these MSS. is mentioned in a formal statement of a group of eight manuscripts of the Gospels (the Beza group), the copies of which show marked similarities and all of which, except the Leicester Codex, date from the eleventh, twelfth or thirteenth centuries. The statement that most of these originated in Italy or Calabria in the twelfth century.

<sup>19</sup> M. R. James, *Greek MSS. in England before the Reformation*, p. 161; "Ancient Book Holdings by the Heads of the University of York," *Journal of Theological Studies*, vi, 195, *The Wandering and Home of Manuscripts* (London, 1925), p. 11. M. R. James, *Age of Manuscripts* (Oxford, 1932), p. 41. Texts included in the *Beza* and the *Franciscan* groups for their relevance.

<sup>20</sup> M. R. James, *Descriptive Catalogue of MSS. in the Library of Corpus Christi College, Cambridge* (Cambridge, 1922), I, 108.

<sup>21</sup> Cf. Harris, *op. cit.*      <sup>22</sup> James, *Greek MSS. in Eng.*, p. 168.

<sup>23</sup> *Ibid.*, p. 168.



It is about precisely this Greek noble, however, that the story of our house tell is specific. For there can be no doubt that the Eumaneus of Constantinople who wrote the *Lepiden* and the other MSS. was the "certain Eumaneus, knight of Constantinople" to whom the bishop of Winchester had before 28 April, 1448, paid ten marks at the command of the king and council. By 1448 the Greek had dropped the designation "knight," perhaps through consciousness of changed circumstances, perhaps because it was natural to use the title only formally.<sup>107</sup> What is significant is his connection with the archbishop of York on the one hand and with the bishop of Winchester on the other.

George Neville, son of the earl of Salisbury, brother of the earl of Warwick, and cousin of the duke of York, was in 1448 just being advanced to be bishop of Ely.<sup>108</sup> Not until 1455 was he promoted to the see of York.<sup>109</sup> On 25 June, 1444, a papal dispensation had advanced him as archdeacon of Durham and had described him as in deacon's orders and in his twenty-second year.<sup>110</sup> Young as he was, however, he had been made chancellor of Oxford university on 8 June, 1443, a post which he retained until the summer of 1451.<sup>111</sup> Though replaced for four years by Hubert Thomas Chedoke, he regained the chancellorship in 1451 and continued to hold it until 1472.<sup>112</sup> Not only was he archbishop of York during the last seven years of this period but with the accession of Edward IV in March, 1461, he became chancellor of England and retained the high office until

<sup>107</sup> A papal bull designating Eumaneus Christianus as one of an embassy to visit the emperor (signed) in 1443 calls him "nobilis Constantinopolitanus" (Reginald, op. cit., I, p. 100).

<sup>108</sup> *Cal. Pap. Reg.*, II, 50. Papal provision to George Neville, canon York and bishop-elect of Ely, of the church of Ely, 2 February, 1448; *Cal. Pat. Rolls*, 1447-1451, p. 283. Mandate to archdeacon to follow the imposition of Ely, 21 March, 1448.

<sup>109</sup> *Ibid.*, 1448-1451, p. 322. Another mandate touching the imposition of York, 27 June, 1449.

<sup>110</sup> *Cal. Pap. Reg.*, II, 111. As soon as he has completed his twenty-second year, the dispensation provides, he may be promoted to the rank of priest.

<sup>111</sup> *Cal. Pap. Reg.*, 1443, *Elys. Acad. Conv.*, I, 107, 109, 111, 112.

<sup>112</sup> *Ibid.*, I, 109, 112, 114, 115, 116, 118, 119, 120, 121. The earliest of these designations is on 11 February, 1451, the latest on 4 March, 1472; but, in a confirmation of the grant for the tower of Oxford dated 20 July, 1472, Neville is called chancellor of the university (*Cal. Pat. Rolls*, 1461-1471, p. 177) of *Cal. Pap. Reg.*, III, 111.

8 June, 1487.<sup>107</sup> Though deprived of the great seal at this time and though in political disgrace at various times from 1478 to 1484, he remained archbishop of York until his death in June, 1486.<sup>108</sup> Considered under ecclesiastical nomenclature it was a political career of twenty-three years begun at the age of twenty and reflecting the fortunes of the Nevilles.

Not as chancellor of England or as bishop of Ely or even as archbishop of York, however, is it likely that George Neville first became a patron of *Emmanuel of Constantinople*. Rather in his long incumbency of the chancellorship of the university of Oxford would he have become interested in translation from the Greek and perhaps in the teaching of Greek.<sup>109</sup> True, the chancellorship seems to have been a political post and the incumbent a favorite of the king or an adherent of the dominant faction.<sup>110</sup> Yet we have seen that William Grey was a scholar of promise and that Thomas Chandler welcomed *Vitell* with an edition. Probably the circumstance that the chancellor in 1486 was also archbishop of York had considerable to do with *Emmanuel's* dedication. It need not, however, be inferred that the Greek scholar copied for Neville the other manuscripts which are in his hand or that he was a member of the archbishop's household, perhaps going as such to Cambridge after the household was disbanded. *Emmanuel* is quite as likely to have been resident in Oxford in 1486 and perhaps for years before. Some probability will attach to this hypothesis by a consideration of the scholarly interests of the other bishop with whom in 1488 he was associated.

William of Waynflete was a prelate very different in age and traditions from George Neville. When he paid the ten marks to

<sup>107</sup> *Cal. Pat. Rolls, 1485-1487*, p. 88, "bishop of Ely and chancellor," 15 March, 1485; *Arden, s. 158*.

<sup>108</sup> *Letters, II, 111*.

<sup>109</sup> Specific evidence about the young prelate's interest in educational or scholarly institutions is slight. With his brother, Richard, earl of Warwick, he resided on 11 May, 1485, a house he found the college of St. William, York, for chancery purposes (*Cal. Pat. Rolls, 1485-1487*, p. 87). Next year he appears as master of the hospital of St. Leonard, York, and again in 1488 (*ibid.*, pp. 104, 107).

<sup>110</sup> When Neville was in disgrace in 1479, the recently elected Edward IV for granting his election of a chancellor but it proceeded to choose his chaplain, Master Thomas Chandler (*Med. Acad. Chron.*, II, 461). The king had said that day and tomorrow a bishop or had been their master (*Mem. 1793 Chron. Cal.*, II, 461).

Kennard in 1415-1420, he was about sixty years old and had been for nine years bishop of Winchester. In a general way he was heir to the illustrious traditions of his immediate predecessors at Winchester, to both the educational fame of William of Wykeham and the political activities of Cardinal Beaufort. Educated probably at Wykeham's two foundations, the college at Winchester and New College, Oxford, he was nominated by Cardinal Beaufort in 1409 to be master of the hospital of St. Mary Magdalen near Winchester. When in 1418 the king founded Eton, Wapulete was named fellow and in 1445 became second provost of the college. With his promotion to the see of Winchester in 1447 a political career opened. Becoming a member of the privy council, he was one of those who treated with Cade in 1449, and in March, 1450, he was sent by the king to make terms with the approaching Duke of York.<sup>12</sup> Throughout the regency his constant attendance at the council indicates that he was *persona grata* to the Yorkists.<sup>13</sup> Becoming chamberlain on 11 October, 1450,<sup>14</sup> he threw in his lot with the queen's party, which soon afterward recovered its throne, and for four years in his high position became increasingly anti-Yorkist. Although his political career actually came to an end in 1461, he remained bishop of Winchester until 1468.

During the twelve years of Wapulete's active political life his interest in education was not dormant. Indeed, a strong bond between himself and the king continued to be their eagerness to establish and endow colleges. Just as he had been put in charge of Eton shortly after its foundation, so he came to be associated with the king's second college, St. Mary and St. Nicholas, Cambridge. In 1445 to him and to the Bishop of Lincoln was given power to reform, with the advice and counsel of the provosts, the statutes of both colleges.<sup>15</sup>

Since few achievements of William of Wykeham had had happier results than the foundation of New College, of which Wapulete had himself probably been a fellow, the most appre-

<sup>12</sup> Chandler, *Life of William of Wykeham*, op. cit., 11, 29, 30; *Act. Parl. Reg.*

<sup>13</sup> *Statutes, Proceedings*, ed. 145, 147, 148, 150 et passim.

<sup>14</sup> *Parl. Hist.*, ed. 194.

<sup>15</sup> *Act. Parl. Reg.*, 1447-1451, p. 292. 14 July 1445.

polite emulation of his predecessor was naturally the establishment of a similar college at Oxford. So, for the study of theology and philosophy, Weynflete founded the college of St. Mary Magdalen, "commonly called Theologyes Halle." Letters patent to this end, providing for a president and fifty scholars and for the acquisition of property in mortmain to the value of £100 were issued on 8 May, 1448, shortly after the founder became bishop of Winchester.<sup>117</sup> In the autumn of 1448, just before he became chancellor, new provision was made for the college,<sup>118</sup> and soon afterwards a new site was secured with authorisation to acquire property to the value of £200 annually.<sup>119</sup>

To the years 1448-1449, therefore, belongs the foundation of Henry VI's College at Cambridge and Magdalen College, Oxford, both in their beginnings closely supervised by the bishop of Winchester. He must have drawn up the statutes of Magdalen at about the time that he was given power in 1448 to reform the statutes of King's. The papal agent to the acquisition by Magdalen of the lands of the hospital of St. John notes that the new college is founded for secular clerks and other ministers who shall study theology and philosophy, and none of whom shall at the expense of the college teach publicly all who wish to study these subjects.<sup>120</sup> But there is evidence that theology and philosophy were interpreted liberally. Lawrence Humphrey, who was president of Magdalen from 1481 to 1488,<sup>121</sup> says that Weynflete opened these schools in order that the words of Greek and the humaner letters might be seen in different parts of the kingdom.<sup>122</sup> Thus sixteenth-century tradition recorded

<sup>117</sup> *Ibid.* *For. Rel.* 1448-1449, no. 108, 171.

<sup>118</sup> *Ibid.* 1449-1450, p. 104. Lands and rents to the value of £100 might be acquired throughout and the priory of Evesham, Northw., with all its possessions was made over to these clerks. 10 September, 1449.

<sup>119</sup> *Ibid.* p. 120. On 10 January, 1449, the master and brethren of the hospital of St. John the Baptist within the East Wall of London were authorised to grant buildings and land premises for the president and scholars of Magdalen 1448, 1449-1450, pp. 42-44. Papal agent was given on 18 March, 1449 (*For. Rel.* 1449, no. 113, 100).

<sup>120</sup> *Ibid.*

<sup>121</sup> *Ibid.*, p. 108.

<sup>122</sup> "Thus, too, worthy Elizabethan Puritans at Institution College would attribute Elizabethanism, Sir Richard's it contains little definite evidence of special reform, at directly upon Lady Katherine of Arundel's humanism. Humanism opens . . . interpretation." Lawrence Humphrey, *Elizabethan Church Life at Henry's Landing*, . . . in *Elizabethan Church History Series* . . . (Oxford, 1949). Quoted verbatim by Clarendon, *op. cit.*, p. 107.

Weysseler's provision for the study of Greek at Magdalen. Such tradition is supported by the entry on the house roll;<sup>12</sup> for, with evidence that Weysseler paid ten marks in 1452 or 1453 to a newly refugee before he was assured of repayment, it is not rash to infer that in acting as patron to the Greek studies he had in mind the retention of his protégé to be instructor in Greek at his new college. Emmanuel's later connection with Neville, and through Neville probably with Oxford, supports the inference.

Another thread connects Emmanuel with the Oxford colleges of which Weysseler was respectively fellow and founder. Now was the college of which Geary became a fellow in 1453 and Magdalen the one to which he came as divinity reader about 1481.<sup>13</sup> If Emmanuel was at Oxford at some time during the two decades after 1453, it was probably from him rather than from Virelli that Geary learned the elements of Greek. Our information about Geary's life, however, is so slight that it has to be extended from our somewhat fuller knowledge of his books.

After Geary's death in 1581 Linsae drew up a catalogue of these, most of them being printed books and most of them in Latin.<sup>14</sup> Eight named Greek manuscripts, however, as Linsae's attached accounts show, were bought for Corpus Christi College, Oxford, by its enlightened master, Thomas Clapmond.<sup>15</sup> His note about the purchase from the house owner appears in seven of them.<sup>16</sup> In addition to the purchase, Clapmond made a gift of two of Geary's Greek manuscripts to the college.<sup>17</sup> In these and in ten other Greek manuscripts which he likewise gave,<sup>18</sup> he used a formula different from the one which records his purchases, adding now the reader's prayers for himself as given. Possibly some of the ten as well as the two

<sup>12</sup> *ibid.* 2, 39.      <sup>13</sup> *ibid.*, *op. cit.*, pp. 184, 185.      <sup>14</sup> *Ibid.*, pp. 151-155.

<sup>15</sup> *Ibid.*, pp. 155-156.

<sup>16</sup> H. G. Goss, *Catalogue of Books 1573, for the College of Corpus Christi and the Hall, Alexander House, 1580-2*, MS. of Corpus Christi College, nos. 25, 26, 126, 129, 130, 137, 140. In the eighth, no. 136, there is no note about the purchase but the formula seems to suit as here from William Geary.

<sup>17</sup> *Ibid.*, nos. 25, 26, 126-127.

<sup>18</sup> *Ibid.*, nos. 78, 81, 82, 83, 79, 86, 84, 85, 138, 141.

came from Georgia.<sup>17</sup> If so, an inference which follows from the character of one of the two will be strengthened.

For one of the two is a revision of Pallas and is one of the manuscripts written in part in the unusual hand now identified as that of Emmanuel of Constantinople.<sup>18</sup> Another manuscript in the same hand, a *psalter*, is among the ten which Chyrmoud gave to the college and which, in whole or in part, may have been Georgia's.<sup>19</sup> One, therefore, and perhaps two, of Emmanuel's manuscripts came into the hands of Georgia before they passed into the library of Caspar Chelati. The one about which there is no doubt is a Greek revision, one which no more appropriate text could have passed from teacher to pupil. Since the *Evangelia* was copied in part from an original once in Constantine's possession, the copying may well have been done at Odessa. Constantine gave his books to the Franciscans there and they probably still had most of them in the fifteenth century.<sup>20</sup>

Mention of this monastery suggests another hypothesis. It will be remembered that Dr. Harris has shown that the Calus College *psalter* in Emmanuel's hand belonged to Richard Brynkley, the last provincial minister of the Franciscans in England, and has surmised that the Leicester Codex did also. He was inclined, despite the apparently Italian origin of the paper used, to suggest that they were written in the scriptorium of the Franciscans at Cambridge.<sup>21</sup> He points out, however, that another of Brynkley's books, the Calus gospels, was borrowed from the Franciscan convent at Oxford and not returned.<sup>22</sup> Is it not conceivable that the Calus *psalter* and the Leicester Codex (if it once was Brynkley's) came in the same way from the same place? If they did, some of Emmanuel's

<sup>17</sup> In the two Gospels now lost in the Jerusalem it is in the hands of the young 2000, purchased for the college. In other hands of his it may not have been written. If it was not and if some of Chelati were the last without it, there is nothing in Chyrmoud's remarks by which to identify them.

<sup>18</sup> *Ibid.*, loc. cit. 10-12.

<sup>19</sup> *Ibid.*, loc. cit. 11.

<sup>20</sup> F. S. Harrison, *School of Greek Studies* (London, 1909), p. 85; Harris, *Book VIII*, in *Eng.*, pp. 544-545.

<sup>21</sup> *Id.*, *ibid.*, p. 11; *Origin of Leicester Codex*, pp. 11, 12.

<sup>22</sup> On the first page he writes "This Liber est de confessionalibus thesauris, submissis Oxiensibus et circumstantibus lat. Rm. Brynkley Magister" (*Ibid.*, p. 10).

manuscripts can by somewhat tenuous threads be connected with Oxford.

Further conjectures about two others may be hazarded. In the library of Corpus Christi, Cambridge, there is a fine Homer probably written, Dr. James thinks, by the scribe of the Lobenstein Codex but with a different pen. He suggests that it may have been the work of Erasmus before he came to England. Since it is said to have come from St. Augustine's, Canterbury, he further mentions that Christ Church was really its earlier home and that it may have been brought from Italy by Peter Selling.<sup>10</sup> Now, however, that Erasmus is known to have been in England before 1498, it is not necessary to make this surmise. Instead, Selling, who was studying at Oxford in 1498 and probably for some time before and after that year, may have known the Greek scholar there. From the contact may have come the young man's eagerness to go to Italy, and from it his first interest in Greek. Later he may have continued the acquaintance. In 1478 he wrote in intimate vein, thanking the warden of New College, Thomas Chaulden, for pecuniary assistance in reconstructing a chapel at Canterbury College, Oxford, and in maintaining Christ Church monks there.<sup>11</sup> His close relations with the two colleges would have given him opportunity for intercourse with Erasmus, if the latter continued to reside at Oxford. Thus the Homer may have been got directly from the Greek scribe, if, indeed, he wrote it.

One of the patterns written in Erasmus's hand may also have followed this conjectured route of the Homer. To-day it is in the library of Trinity College, Cambridge, many of whose manuscripts came from Christ Church, Canterbury, through the hands of Archbishop Whiggin and Dean Nevile.<sup>12</sup> There is no reason why it may not have passed through Selling's hands.

<sup>10</sup> James, *Corpus Christi Lib. Coll.*, I, 108. He assumes the conclusion that the manuscript was identical with a "vulgate" Homer said to have been transmitted Italy by Theodore Beza, who died in 1498.

<sup>11</sup> *Lat. Letters*, II, 295, 297.

<sup>12</sup> *Id.* II, James, *Pattern Manuscripts in the Library of Trinity College, Cambridge* (Cambridge, 1897-98), II, 107. The *Bezae* library at Canterbury and other places before, 1600, is listed.

Of the eight or nine MSS. written by Emmanuel, and now in England, six may thus by conjecture be connected with Oxford. One or perhaps two were among Grosyn's books; one and perhaps another may have come into Seling's possession; one and perhaps two, which can be traced to the Franciscan convent at Cambridge, may have been got by Heyndrick from the Mosaicists at Oxford. About the provenance of the Durham Plato and Aristotle and of the Solinus now in the British Museum nothing has been learned.

Apart from his use of Demosthenes's Solinus it is not clear where Emmanuel made his copies. Dr. Hardy is inclined to connect the Plato and the Homer with Italy, and Dr. James remains as to the latter. The water marks of the paper used in these volumes seems to be Venetian.<sup>12</sup> But Venetian paper was imported into England, as the customs accounts show.<sup>13</sup> On the other hand it is not impossible that the Greek scholar journeyed to and from Italy and made copies there.<sup>14</sup>

Emmanuel of Constantinople, thus recruited from fragments of information about him, stands forth as the first Greek scholar and possibly as the first teacher of Greek in fifteenth-century England. In 1468-1469 a gift of ten marks from the crown was conveyed to him by a member of the policy council, the bishop of Winchester. At the moment, the bishop was intent on founding Magdalen College and is said to have provided for the study of Greek there. In 1468 Emmanuel transcribed a Greek manuscript for the archbishop of York, then chancellor of Oxford, and at one time or another transcribed some eight or nine other manuscripts now in English libraries. Certain of these were at one time Grosyn's; others may have been Seling's. Both Grosyn and Seling were at Oxford in the decade after

<sup>12</sup> *Harley, Origin of Lib. Colln.* p. 31; *Parish Group*, pp. 32-33; *James, Cat. MSS. Orig. Lib. Colln.* p. 161. The *Isidore Colln.*, the *Arctostele* and the *Platonius* written on paper which are partly of vellum, partly of paper. The *Homer* is wholly paper; the *Gregory's Latin Solinus* and *patristics* are partly vellum, partly paper, as is the *British Museum Solinus*. Only the *Colln.* and *Trinity patristics* are wholly vellum.

<sup>13</sup> *P.R.O.*, E. 105, 15/10. A. Capella imported in his own galleys 11 bales of paper worth 21s. 2d Oct., 1465; A. and F. Comers imported in the galley of A. Capella 15 bales of paper worth 50s. 3d Sept., 1467.

<sup>14</sup> Dr. Hardy thinks that the illustrated initials of the *Trinity patristics* are in an Italian hand (*Parish Group*, p. 33, vol. IV; *James, Origin of Lib. Colln.* English *Cat. MSS.* 15/10, p. 167).



1450 and both became eager to learn Greek. Though Belling soon went to Italy and may have learned the language there, Gregory actually acquired some knowledge of it before he set out for Italy in 1488. That Cosmas Vitell was his tutor rests on no other evidence than that Vitell taught Simon Stearn at Oxford as early as 1474. The simplest hypothesis on which to explain all known facts is that Eusebius was resident at Oxford at one time or another, was associated with Magdalen College, or possibly with New, transcribed Greek manuscripts of which several remain, and taught the elements of Greek to such young men as Belling and Gregory. Perhaps Vitell, if he did give instruction in Greek, was invited to Oxford on his own terms.

In support of this hypothesis we have one hint that there existed a rudimentary interest in Greek at Oxford soon after 1450. In the years 1488-1493, the official secretary of the university, a certain John Farley, amused himself by signing his name to official documents in Greek characters.<sup>16</sup> Again, on the last page of a twelfth-century Greek psalter, clearly once the property of Cisterciates and now at Corpus Christi, Cambridge, he wrote his name in the same way.<sup>17</sup> Of course, nothing is easier than to learn to write one's name in Greek; but the fact and the practice, appearing at precisely this time, may indicate that toying with Greek was becoming fashionable at Oxford towards 1480.

What may credibly be conjectured about the first study of Greek in fifteenth-century England stands, as matters stand, little better than the items grouped round the name of Eusebius of Constantinople. There were, however, Englishmen other than Holme and Grey, Weycliffe and Neville, Belling and Gregory, who were their contemporaries and who, as devotees of classical culture, were not immune to Greek. To ascertain more precisely the circumstances under which the new study was taken up in England attention should be given to the careers of John Puss, or Prouss, John Tyndal, earl of Worcester, John Gualthrop and Robert Fleming. The first, a protégé of

<sup>16</sup> *Spice and Seal*, I, 49-50.

<sup>17</sup> *Annals*, fol. 120v, Corp. Chr. Coll., I, 121.

Gray, attained distinction and wealth in Italy before his death there in 1483. His rendering into Latin of *Synecides On Soliloquies* was the first translation from the Greek to be made by a fifteenth-century Englishman. Tiptoft, highly delighted by Leland, heard lectures at Padua, brought tears of joy to the eyes of Pius II when addressing him in 1458, and collected in Italy a fine library later given to the University of Oxford. Gauthier, after acquiring a knowledge of Greek in Italy and serving Pius II as papal chaplain, returned to England by 1465 to enter upon an ecclesiastico-political career, which in time made him dean of Wells and lord privy seal. From 1467 to 1474, during which years he was either secretary to the queen or ambassador to the king, he was master of King's Hall, Cambridge. What influence he may have had upon learning here is unknown but he seems to have demonstrated his own familiarity with Greek in the composition of a rhetoric which at times made use of Greek words. Fleming, after leaving the bishopric of Glasgow, was for several years from 1453 king's preacher at Rouen before he returned to his diocese at Lincoln. Leland ascribes to him a Greek-Latin dictionary and this should place him with Selling and Gauthier as a scholar returning to England towards 1478 and acquainted in a measure with Greek.

What is striking about the Englishmen of 1447-1488 who, through sojourn in Italy or otherwise, early won reputations as scholars, is the high place which they attained in church and state. It is not likely that in their later years they became altogether immune to the enthusiasm of their youth. That their theories came to the universities or to the colleges is clear; some of them were patrons of Erasmus; but in what other ways their humanism bore fruit is still to be ascertained.

HOWARD L. GRAY

## THE COMMUNAL MOVEMENT IN SYRIA IN THE THIRTEENTH CENTURY

In the history of the rise of the communal movement, the period of the crusades is universally accepted as the greatest age for the development of communal institutions, and the crusades themselves are generally considered to have given a powerful impetus thereto. When we turn to the East, however, we find that while the most important part of the life of the Levantine principalities founded by the crusaders was in the cities, the communal movement as such never took firm hold in any of them, and some historians of the crusades have gone so far as to assert that there were never any communes in Syria. While others, such as Rey and Luchaire, tacitly admit the existence of communes, no one has to my knowledge made any study of the communes which developed in the crusading states in the thirteenth century, and it is the purpose of this essay to consider the reasons why the communal movement failed in general to develop in Syria, at the same time pointing out that communes, in the sense of sworn associations for municipal government, did exist in at least three of the cities of Frankish Palestine.

Several causes explain the lack of communal development in the cities ruled by the crusaders. One was undoubtedly the extremely precarious position of the cities and their constant need for military protection, a need which made the barons, who wished to expend their efforts on communes and industry, more willing to leave the government of their cities to those lords who defended them. When the communes did develop, it was because defence and protection was not provided by the lord of the town. Thus Antioch founded her commune in 1194 when Leo II of Armenia was attacking the city and when Bohemond was a prisoner. The commune of Acre was organized in 1191 to strengthen the resistance against Richard Filangis, Frederick's bailiff in Syria, and was a part of the general resistance of the Syrian faction against the Imperialists;





knights, although there is no provision in the Arabic corresponding to that of Norman England that the merchant who had thence hired across the sea was therewith of dayslight worth. The constant war caused a destruction of the nobility which necessitated recruitment from the lower classes. When Balian d'Ibelin went to Jerusalem after the disastrous battle of Hattin, he found but two knights remaining in the city and so created sixty knights from the burghers to replenish the ranks.<sup>1</sup>

Several charters have been preserved in which burghers acted as witnesses, and, in some at least, as witnesses representing the burghers as a class. A charter of Foulques of 1133 and one of Baldwin III of 1138 carry the names of burghers, signing under the heading *de burgenibus* and coming after the knights who signed as *de baronibus* or *de dominibus* *capituli*.<sup>2</sup>

There are several instances to prove that in the absence of the lord who held the city in fact the citizens of a town acted in what was almost a corporate manner. However, it should be borne in mind that in those cases the burghers so acted in the absence of the nobles, and that normally it was the nobility of the city who acted for the whole community. Thus the men of Antioch summoned Tancred to rule over them during the captivity of Bohemund I in 1104, but it must have been agreed that it was the nobility of Antioch who issued the invitation.<sup>3</sup> When Saladin was besieging Ascalon in 1187 it was the burghers of the city who negotiated the surrender of the city in return for the liberation of the captive king Guy de Lusignan.<sup>4</sup> Likewise the citizens of Jerusalem started the negotiations with Saladin, though when Balian d'Ibelin arrived, he took command of the city and ordered the capitulation.<sup>5</sup>

Some restrictions were placed upon the burghers in the East, but on the whole their position was most advantageous.

<sup>1</sup> *Chronique d'Ernest et de Renaud de Poitiers*, ed. L. de Mas Latrie (Paris, 1881), *Recueil de Chartes de France*, p. 176. (Cited hereafter as *Ernest*.)

<sup>2</sup> Cf. de Rozière, *Chronique de Foulques de Saint-Gilles* (Paris, 1895), nos. 28, 29; Balduino, *Regesta*, nos. 127, 128. See also Poins, *op. cit.*, pp. 144-150, 175-182.

<sup>3</sup> *Chronique de Chastou, Histoire d'Antiochie*, Book II, chap. vii, in *Ann. Soc. Sci. Hist. Antiochie*, vol. 104, B. Baguenard, "Chronologie de l'événement de Hattin," no. 129 in *Recueil de Chartes de France*, 1881 (published under direction of Soc. Sci. Hist.), 209. "Histoire des Princes d'Antiochie" in *Ann. Soc. Sci. Hist.*, 1881.

<sup>4</sup> *Ernest*, pp. 174-176. "Can il s'arrêta and d'arrêter?"

<sup>5</sup> *Ernest*, pp. 275-282.

According to the laws of Cyprus in the fourteenth century the bourgeois could not marry their daughters to nobles, but the wealthy bourgeois could fairly readily become himself a member of the nobility, as has been indicated above.<sup>1</sup> Dölle further asserts that the bourgeois were unable to hold fiefs, but this was true only in theory and many fiefs were actually held by bourgeois.<sup>2</sup>

The ordinary Syrian city was ruled by the king or by its lord, and the titles of the Ottoman nobility were derived from their cities. The lords of Tyre, Jaffa, Acre, Beirut, Amos, Caïphas, Caesarea, Rama, and Sidon were among the great barons of Jerusalem. Dölle lists thirty-seven towns where were established courts for the bourgeois within the principality of Jerusalem (i.e. not including the principality of Antioch and the counties of Tripoli and Edessa) and of the thirty-seven, four, Jerusalem, Acre, Tyre, and Nicosia, belonged to the king while the other thirty-three were in the hands of private lords. The court was under the control of the lord and administered by his vicar.<sup>3</sup>

<sup>1</sup> "Laws of Selimkhanen des Sult de Chypre," *cit. v.*, in *Archives d'Orient*, I, 204.

<sup>2</sup> Dölle, *op. cit.*, makes this statement on the authority of Jean d'Asie, the king of Jerusalem in 1285, in *Archives d'Orient*, vol. I, *Archives d'Orient* in *Archives d'Orient*, vol. I, 204. Jean d'Asie says that fiefs may not be sold to bourgeois, as "it is better that we possess ourselves" (fiefs which is omitted in manuscript C of *Asie* (1285)). The Count de Sidon *cit. v.* in *Archives d'Orient*, 1285, which is a later compilation of Dölle's law than Dölle's, says that fiefs may not be sold to bourgeois, although some fiefs of bourgeois have been taken to some Italian, Syrian, or by some master to some knight — "it is better that we sell ourselves as knights is better." This indicates a bourgeois might not hold a fief, but means if a knight did establish the fief, he was a knight. Then Philippe a Prince bourgeois, purchased the lord of the fief of Sidon from Raymond of Tripoli, he received his title and became through his wife the lord of Sidon: "Baron Philippe bourgeois d'Antioche" in B. N., *Asie*, 1285, vol. III. "Baron, J. J. J., and vol. IV, II, says that while the bourgeoisie the lord of fief to bourgeois there was little effect made to induce them, and that they were not allowed to sufficiently proved by the documents recording sales to bourgeois cited in *Archives d'Orient*.

The church was established to provide for the poor, and the king of Sidon was charged to make provision of aid without discount of the interests of the church. The members of the Templars, Hospitallers, of Saint Stephen, and others asked the quantity of land given and sold the church. On the point on the church on the relations of the king of Jerusalem to the church, in my *Asie* in the *Asie* Kingdom of Jerusalem which will be published shortly by the Ohio State University, Columbus, Ohio.

<sup>3</sup> Dölle, *op. cit.*, 204, *cit. v.*, 204. A French entry was "in 1285 in Chypre a count of Sidon de Jaffa. III a Chypre a count de bourgeois de Jaffa." Though in

The *loqfa* viceversely also led the troops which the town was held to supply in times of emergency. Two types of service were looked against the cities in times of special need: knight service due from holders of money-fiefs in the revenues of the towns, and sergeant service due from the towns itself, apparently from the bourgeois.<sup>12</sup> Thus *Lo qidif d'ere d'el sergeants* FC which are owed by the city quite apart from the eighty knights who held fiefs against the revenues of the city, or the one hundred and fifty sergeants owed by the bishops of Acre. The revenues of Tyre supplied money-fiefs for twenty-eight knights, while the city itself supplied one hundred sergeants and the archbishop supplied one hundred and fifty sergeants.<sup>13</sup>

This movement of sergeants against the cities indicates that they were then considered for some purposes as corporate units. But they were in no sense communes. They were owned by a lord and the sergeants supplied by them served under their lords.

Only on three occasions did the inhabitants of Syrian cities organise themselves into definite communes. Even then the leadership in the communal movement was taken by nobles, and the movement was by no means a purely popular one.

The oldest commune in existence was that of Antioch which dates from 1184. In that year Dehaimond III was defeated and taken prisoner by Leo II of Armenia, who forced his captive to

some more the town separately and instead of giving it to I think only to promise that the town was independent. Royal troops are referred to as the counts of the said subject. The count of Lyons is mentioned in the bishop's letter then to the king. The I had given definitely that the bourgeois were controlled by the king. D. Barre, *Le fort de la ville* (Paris, 1903), pp. 71-82, implies this opinion though at times he seems to think them equal counts.

<sup>12</sup> *Ibid.*, pp. 82-87, also refers to them. The fact but is that of all the knight's service due to Jerusalem and includes knights due from holdings in the towns. The second list sergeants to be awarded in times of special need and includes troops from churches, monasteries, and the cities themselves.

<sup>13</sup> It is possible of note that three of the knights from Tyre was used by the Town Count.

*Ibid.*, op. cit., p. 10, says that the sergeants were apportioned according to the wealth of the cities, and that there was no question of the land-owning service. When the crisis was passed these sergeants were home. The Italian commune was required to supply soldiers sometimes to defend the cities in case they were attacked, but could not supply troops for an offensive campaign. The three knights which the French king owed from Tyre were undoubtedly the three counts who they had granted and which did not come within the sphere of their inter-territorial jurisdiction.



cede his principality of Antioch to him. Hagen of Babian was sent by Leo to occupy the city with Armenian forces. But the men of Antioch rose in arms against the Armenian occupation and drove the Armenians out of the city. Then, under the leadership of Amoury the Patriarch, all assembled and celebrated a commune, which they had never had before. The commune then sent for Raymond, the eldest son of Bohemond, to act as lord of Antioch during his father's captivity.<sup>10</sup>

The commune of Antioch, founded thus to oppose invasion, remained an important factor in the government of the city throughout its control by the French prince. In 1187 Innocent III wrote to Bohemond III and to the mayor of the commune threatening excommunication if they persisted in following to a schismatic patriarch.<sup>11</sup>

In 1188 Bohemond III died and Leo II claimed the principality for his great-nephew Raymond Ragnin. Bohemond's grandson through Raymond his eldest son who had died before his father. Raymond had married Alice, the niece of Leo, and their child Raymond Ragnin had been brought up in the court of his maternal great-uncle. One party in Antioch supported the claims of Raymond Ragnin who was the legitimate heir to the throne. But Ragnin on the throne of Antioch would mean Armenian control of policy and a large party turned to Bohemond of Tripoli, the ruler. Bohemond came to Antioch where he "was in company de la commune et assambla tous les gens chevaliers et autres bons homes" and secured their recogni-

<sup>10</sup> *Chronique de Bohémond, Comte de Antioche* being the continuation of William of Tyre (ed. Kugener as *Bohémond, Com. Ant.*, no. 174, pp. 11, 112-113) subsequent revision. The first clause was made by "Leo laisse le prince," obviously the knightly words. The commentary described—"Parce que l'empereur ne pouvait pas se faire un tel prince. — et ne pouvait pas faire de son prince, le prince d'Antioche s'en vint par lui."

Ray. Com. de Ant., no. 184-185 describes how properly the first clause of this sentence — the longest treatment I have observed in any modern edition.

<sup>11</sup> *Feutrier, Histoire Pontificale des Croisades* (Paris, 1884-92), I, 282, no. 1000; Ray, "Les dignitaires de la principauté d'Antioche" in *ibid.*, vol. 181. As the page indicates Bohemond only as count of Tripoli it would seem that Antioch was governed jointly by the commune. This same observation holds good for the entire papal correspondence during the struggle between Bohemond IV and Raymond Ragnin.

See in *Antioche, Histoire XI*. On question of Great Frank, 1183, p. 94 for the relation of the Pope with the Antioch commune.

tion as heir.<sup>12</sup> But in the course of the war which followed, Pierre d'Antioch, the Latin Patriarch of Antioch, supported the claims of Raymond Ragon and carried the commune with him. Bohemond seized the Patriarch and defeated and crushed the commune, without however disbanding it.<sup>13</sup> Eight years later Antioch, the weakened, was mayor of the commune, and he betrayed the city into the hands of Raymond Ragon.<sup>14</sup> In 1118 when William Tarnab, the constable of Tripoli, surrounded Antioch back to Bohemond IV, Robert Musard, the constable of Antioch, was mayor of the commune.<sup>15</sup>

The commune of Antioch continued throughout the Frankish control of the city, and it was the commune, in conjunction with the lords of the palace, which governed the city during the residence of Bohemond V and Bohemond VI in Tripoli (1188-1176).<sup>16</sup>

The second Syrian commune was that of Acre, founded in 1121 when Richard Filanger, Frederick II's heir in the east, was at war with the barons of Jerusalem over Beirut which he had seized from Jean d'Ibelin. The lords of the commune was the old *Frérie de Saint-Jacobi*, a religious brotherhood of the burghers of Acre. The *Frérie* was operating under a charter "*Ordonne des mil Barons et rudesme par son poverlige*" which had been confirmed by Henry of Champagne.<sup>17</sup>

When Filanger seized Beirut from Ibelin, the latter appealed to the king of Cyprus and the barons of Jerusalem for assistance and a party was formed. Italian of Sidon and Eudes de Marcelland, the heir-designated by the barons, were in Italy

<sup>12</sup> *Ibid.*, p. 118.

<sup>13</sup> *Ibid.*, pp. 113-114. "*Les Seigneurs des Châteaux*" (laid as *Seigneurs*), in *Rev. Hist. et Arch. syrienne*, 2, 188, paragraph 85; *Rep. des Gr. Gr.*, vii, 125. The Patriarch was imprisoned without being satisfied himself by drinking the oil out of his lamp in an effort to die by thirst.

<sup>14</sup> *Ibid.*, p. 111, par. 74. Antioch appears with both titles as a charter of Ragon given to Walter Langton, *Notes des chartes d'Antioch* (Paris, 1893), p. 117, no. 14. *Rep. des Gr. Gr.*, iv, 232, 233; vii, 126-127.

<sup>15</sup> *Ibid.*, p. 102, par. 70. "*Musardus constabularius et major Antiochie*" witnessed a charter of Ragon of March 1118 given to St. Basilide, *Chartes Syriennes* (Paris, 1893), pp. 41-42, no. 15; *Reichelt, Repert.*, no. 161; *Rep. des Gr. Gr.*, vii, 124.

<sup>16</sup> *Rev. Gr. Gr.*, iv, 232-233.

<sup>17</sup> *Ibid.*, p. 101. Bouquet, *Annales*, 2, introduction, pp. xvi-xviii. The original has not been preserved.

at this time at the court of the emperor.<sup>11</sup> Jean d'Eslyin was then the acknowledged leader of the October nobility, and on his behalf, and as a protest against the action of a body whom they refused to recognize, the barons demanded the surrender of Eslyin by Pilager. Upon his refusal they joined the *Frérie* and when Eslyin came to Acre soon thereafter, he too was sworn into the brotherhood.<sup>12</sup> It was at this time, when the barons joined with the brotherhood, that the commune must have been organized.

There are only two principal authorities for the events in Acre at this period, the *Frérie* and the *Mémoires de Philippe de Novarre*; the latter is to be preferred as having been written by one more closely connected with the events described. The *Frérie* describes the occurrence: "Et assamblés les gens, clercs, liers et bourgeois et le peuple, et devant son jure la frérie de Saint-Jacques au latin de l'eglise," and then goes on to tell how Eslyin addressed the people and so stirred them that they rushed out and captured the imperial galleys which were wintering at Acre.<sup>13</sup> There is no mention of a commune in the *Frérie* account. But Philippe de Novarre, in describing the events, says that Eslyin so stirred the people by his many reasons why they should no longer tolerate the rule of the emperor "que il li firent naître de la commune d'Acre."<sup>14</sup>

The commune of Acre would thus have been organized by the coalition of the bourgeois *Frérie* with the nobles and by the election of Eslyin as their mayor. The step was an easy one. The members of the *Frérie* were a sworn corporation and by changing to a commune they did not greatly alter their status. The nobles were included but the *Frérie* was the basis of the commune. The use of the term commune by Jean d'Eslyin of Eslyin, in his account of the events of 1185, confirms Novarre's

<sup>11</sup> Many numerous references in a chapter of *Feudalism in Normandy* (Harvard University, *Medieval Studies*, *Medieval Diplomatic Studies* (Cambridge, Mass., 1934-35), p. 170.

<sup>12</sup> *Medieval Studies*, op. cit., vol. of problems, p. 170, says that the barons "affilièrent à la confrérie des bourgeois de Saint-Jacques" and that Eslyin later joined it. He does not recognize the existence of a commune in Acre in this period at all.

<sup>13</sup> *Frérie*, c. 104. *Medieval Studies*, *Medieval Diplomatic Studies* (Cambridge, 1934), p. 171. This is the account followed by *Medieval Studies*.

<sup>14</sup> Philippe de Novarre in *Contes des Chevaliers* (p. 135).

employment of the term and gives adequate proof that it was a movement that was born home and not merely an extension of the French to include non-bourgeois members.<sup>17</sup>

After the defeat of the Imperialists at Carthage, Frederick sent to Syria the bishop of Sidon to make a compromise with the Turk-Cypriot faction. His proposal was that Flangin should be confirmed as bailli in Tyre and that Philippe Mangonseau should be bailli in Jezz. According to Novace the barons in Jezz, under the leadership of Eudes de Montbelliard and Radwan of Sidon (the bailli whom Frederick had appointed before he left Syria and who were recognised by the barons as legitimate baillis) were about to accept the new appointments and to take oath to the appointees when Jean of Cassarea, nephew of Jean d'Bohla of Beirut, rounded the towns of the commune. When the French heard this they rushed to arms and attacked the bishop and baillis with such force that the lives of these were saved only by the intervention on their behalf of the lord of Cassarea.<sup>18</sup> Jean d'Bohla of Jaffa gives the same story but according to Bohla it was Ghert the Patriarch who read the letters from the emperor. Jean of Cassarea objected to the imperial violations of the old laws and customs of the kingdom. "il que y at el grant danger que la commune des communes de Fessaque [of Sidon] s'en parti et le seigneur de Saida et le constable demourerent malicieux il estoient sur le fait de la seigneurie."<sup>19</sup>

While Bohla omits the details of the riot both accounts agree in substance and both are by men who were living at the time and were intimately connected with those who participated in the events described. Both refer to the conquest des communes which should establish definitely the existence of the communes. Novace further tells how Jean d'Bohla of Beirut returned to Jezz the following year and was again elected mayor.<sup>20</sup>

<sup>17</sup> Bohla in *Journal de l'Asie*, II, 288.

<sup>18</sup> *Chron.*, pp. 251: "quant les nouvelles de conqueste de la commune. Ghert a le bailli de seint elias de set, il furent si courus et courus tant a Saida et Tyre."

<sup>19</sup> *Journal de l'Asie* (Syria), p. 251; where also Bohla of Sidon was the only bailli in 1231. Not in 1240. Montbelliard was bailli at Jezz in 1241, p. 252.

<sup>20</sup> *Chron.*, II, 288. Novace's account is almost a literal translation into Italian of Novace's account, which is in fact considered an original source.

<sup>21</sup> *Chron.*, pp. 254.

In letters of 28 September, 1228 and 21 February, 1229 Pope Gregory IX, who had come to terms with Frederick II, ordered the abolition of the commune at Acre. Gregory wrote the emperor concerning the terms of peace to be made between the barons of Jerusalem and the emperor, and in both letters advocated the suppression and dissolution of the commune, the destruction of the bell tower, and the dismissal of the counts and captains who had taken office since the beginning of the trouble. The terms *abolitio communis*, *communio*, *universus*, and *universum* employed by the pope leave no doubt that the city was a definitely organized commune.<sup>2</sup>

In 1241 the chief barons made submission to the emperor, asking that Simon de Montfort, Earl of Leicester, be named *lord* of the kingdom until Conrad should come to claim his throne. In the act of submission they agree that "entre nous la commune et les seigneurs et les chevaliers de la commune, nous sommes et entendons avoir que l'empereur soit seigneur des pais."<sup>10</sup> There is not to my knowledge any later mention of the commune of Acre, from which it may be inferred that the barons kept their word in regard to the reduction of the commune, and that it was disbanded and turned back into the *Feudis*. In the great assembly of Jerusalem which granted Allen of Cyprus the lordship of the kingdom on 5 June, 1185 there is no mention of the commune, though Marcellus George speaks of the popular revolt, and the *Feudis de Saint-Jacob* was augmented.<sup>11</sup>

In 1074, Hugh, King of Jerusalem and Cyprus, abandoned his title of Lord of Ierico and retired to Cyprus, because he was unable to

[illegible]

<sup>10</sup> *Journal de l'Industrie*, 1: 206. Schreiner, *op. cit.*, no. 1009. The origin of the oil of colubidine was found among the papers of Richard P. Connell who acted as mediator between President and the Indians. Paul Simon had several relatives in Syria, including his brother-in-law, and also Philippe de Montfort, lord of Tiroz and Hama, who was one of the donors of the colubidine.

<sup>10</sup> Mariella Giamberini, letter to Diego, in Tobi and Thomas, op. cit., 3, 134-35; see also Giamberini, pp. 242-243, 245-246, 248-249; Giamberini, p. 249; also Lucia, *Storia di Pisa* (in *Pagine* Pisa, 1982-83), 1, 285-286; *Storia della Città di Livorno* (Livorno, 1982), pp. 241-242; *Storia di Livorno*, 1, 185.

make his authority felt in the city. The *Franks* refers to his quarrels with "religions et seigneurs et seigneurs" and describes struggles with Hospitaliers, Pisans, "bourgeois de la terre," Genoese, "maîtres et seigneurs autres maîtres de pays." The communes here mentioned are those of the Genoese and Pisans, and the *Franks* goes on to tell how, when they saw that Hugh was deserting the city, the Patriarch, master of the Hospital, "et partie des communes" asked him to return. But Hugh departed leaving a bailli, vicount, justice of the Peace and Chamber "et les autres offices de son bailliement devant."<sup>18</sup>

Nothing can be definitely proven from the omission of communal records and symbols from this list of officers, but the fact that they are not mentioned and that the city was governed by a bailli and vicount adds evidence to support of the idea that the commune was no longer in existence. The city was governed at this time by Eudes Pilechin, agent of Charles of Anjou and Sicily, and had there been a commune it is only reasonable to suppose that it would have ruled the city. Mikrid describes the anarchy which prevailed in Acre after the departure of King Hugh, due to the various and conflicting parties, and does not mention the commune.<sup>19</sup>

The third Syrian commune, that of Tripoli, was exceedingly short-lived and was organized only in the last year of the Frankish control of the city. In 1290, when Bohemond VII died, the barons of Tripoli asked the countess, his widow, for some one to govern them, and she appointed the bishop of Tortosa. When the barons heard whom she had selected they protested that he was their enemy and that they would have none of him. "Et adonc armerent une commune a Thierri de la beste Vierge Marie mere de Dieu et armerent chevaliers et portent et se q'il lor sembla a faire et se maintenir par pays."<sup>20</sup>

When Isabe de la Paille, sister of Bohemond VII, claimed the inheritance of her brother, the commune under the leadership of Bartholomew de Glabot refused to allow her to enter

<sup>18</sup> *Franks*, pp. 474-475.

<sup>19</sup> Mikrid in Mikrid, *Recherches sur l'histoire de Saint-Jean*, 1902, iv, 142.

<sup>20</sup> *Ibid.*, par. 407; see also Mikrid, *Chapitre*, pp. 494-5.

Tripoli unless she should recognize the commune, and when she endeavored to force her way in past to Genoa for assistance. Benedetto Zaccaria who was in the east with a fleet turned to relieve Tripoli and aided the commune against Lucie.<sup>12</sup> A treaty was signed between Zaccaria and the commune, but the commune did not live up to its agreements and Zaccaria began negotiations with Lucie. But before anything had been accomplished Kelabon had captured and sacked the city and the short-lived commune came to an abrupt end.<sup>13</sup>

The organization of the Syrian communes followed in general the model of those of western Europe, especially those of Italy. It was very largely from the communes of the Venetians, Genoese and Pisans in their own eastern cities that the Syrian Franks copied the institutions for the communes which they set up themselves. The citizens of Acre, Latakia, and Tripoli were all familiar with the Italian self-governing colonies in their midst and readily adopted their institutions. The admission of nobles to membership in the commune in Syria is indicative of the Italian practice of requiring the nobles to join the commune if they wished to enjoy the commercial privileges held by the city. There was a mayor, with the *syndicus*, *consuls*, and *captains*. The bell tower, so familiar an attribute of the western commune, was found in the East also.<sup>14</sup>

One thing was, so far as we know, lacking in the East. No charters granting the privileges of the communes have been preserved, but the fact that none have come down to us is not proof of their non-existence. The charters of the Latin states which are preserved are chiefly those of the religious orders and establishments and of treaties with the Italian cities. As none of the communes survived and as we have no communal archives from any of the Syrian cities of this period we cannot say definitely that there were no charters.

But the town corporation of the commune did exist in Syria.

<sup>12</sup> *Annales*, pp. 422-423; *Recueil des chartes de la commune de Tripoli*, in *R.C.E.*, III, 222, 223.

<sup>13</sup> *Recueil des chartes*, pp. 422-423; *Manuel de l'histoire de la commune de Tripoli*, in *Manuel de l'histoire de la commune de Tripoli*, in *Manuel de l'histoire de la commune de Tripoli*.

<sup>14</sup> For the communal institutions on the basis of Gregory IX and the use of *syndicus* and *consuls* in the East, see *Manuel de l'histoire de la commune de Tripoli*, in *Manuel de l'histoire de la commune de Tripoli*, in *Manuel de l'histoire de la commune de Tripoli*.

In his essay on "The Communes of London," J. Haverland says, "The urban commune . . . for the oath sworn by its members was its essential feature, — was the association or conspiracy, as we choose to regard it, formed by the inhabitants of towns that desired to obtain its independence."<sup>1</sup> And this definition of a commune is thoroughly applicable to those of Syria, for in each case the commune was organized by the swearing together of the citizens.

Communes were of course not communes in Syria and most of the towns as Tyre, Beirut, Latak, Caesarea, Tiberias, and Jaffa were held and ruled by their lords. Their *Chouks des Bourgeois* were under the presidency of their viccounts, and these towns were in much the same legal position as the *villes de bourgeoisie* of the Capetian domain.

Further it must be admitted that the eastern communes never reached the full development of autonomy, with the possible exception of Antioch in that period when the princes were resident in Tripoli. In Acre, after the transference of the capital to that city, there were always the royal officials, royal tax-collectors, justices, and other officers. And even in Antioch the bailiff of the prince ruled together with the officers of the commune.<sup>2</sup>

The presence of the Italian and Provencal quarters, and the immense possessions of the Templars and Hospitaliers further detracted from that unity which was necessary to the full development of the commune. But, granting that the corporations which were formed in these three Syrian cities were not all that might be desired to fulfill the most exacting definition of the commune, granting that their period of existence was short and that their power was ephemeral, there is yet sufficient evidence<sup>3</sup> that in Syria in the thirteenth century,

<sup>1</sup> J. H. Round, *The Communes of London and Other Towns* (London, 1898), p. 100.

<sup>2</sup> A good description of Antioch given by the Emperor in the *Let. ad. ca.* 1149 shows when there is, 100-103. Cf. also given by Friedrich von Bock, *Kommunen des Mittelalters* (Leipzig, 1904, Faksimile Edition) Teil zweite, no. 17, pp. 32-33.

<sup>3</sup> Breguet is apparently that Syria did not know of the existence of any communes and that besides only in the Hellenistic towns when he refers to communes, and that therefore no commune existed in Syria, but these statements sufficiently independent to be left in this case for reference. Breguet *op. cit.* 1, 100, note 22. "On suppose



under Spanish control, numerous — even corporations — did exist.

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que España, por lo común de su esp. subditos en España, así empleó las más cosas de comercio para el comercio con otros países que el de los indios." Two pages later he wrote (Lettres, II, lettr. n. 161) "Les indiens n'ont pas de commerce, mais ils suppléent cette indigence par quelques boutiques dans les villes de l'Inde, les Ports de les Indes." "Le principal point de commerce dans les colonies indies d'Inde." 1660, p. 17-18.

Now to say that Buñol was so wrapped up in European institutions that he hardly applied western terms to institutions in the East is to fail to take the same measure. Buñol, as Buñol would very properly have known in Buñol's consciousness is contained, say, which is hardly conceivable in Buñol's consciousness a light on his words does not to have been. Buñol himself quotes the statement of Diego de Sotomayor that the wages and customs of Barcelona were not exactly those of Mexico, though actually based upon those (Lettres, II, 166), and it would be strange if he himself had not shared the view.

Buñol specifically lists numerous species of the groups which could have been named when any number was numbered, a list which included the family, family group and "house" of the medieval party (Lettres, I, 166). This would indicate the recognition of some degree of unity within the companies if not the recognition of the corporate character. The argument that Buñol did not recognize the corporate character of the companies because, in the list of the table of the chapters with their names of service due, he lists all the other chapters as supplying requests in times of special need and thus not differentiating between those which had companies and those which did not, is easily answered by recalling that the companies were of very short duration and only began in the 16th century. Buñol's list goes back to the reign of Isabella II before any of the companies had been organized, as is proven by the list of names which are in the names of the chapters. The names of the chapters and the names of all of them were important under Isabella II and all of them appear in that list of the period around 1660. While willing to grant Buñol's contention that Buñol used the other names of the chapters as the term companies to indicate that Buñol understood, I am unwilling to agree that he did not recognize the corporate character founded in the Spanish terms. And chiefly apart from the evidence mentioned in the text, there is there that enough proof of the existence of companies in Buñol's country life.



## WITNESSES AND OATH HELPERS IN OLD NORWEGIAN LAW

Some thirty miles north of Bergen on the island of Tynen there seems to have been located in the days of Norwegian heathendom an important sanctuary dedicated to the worship of Njod, the god of the winds and the sea. This divinity is usually identified with Njorthun of whom Tacitus writes in the *Germania*. The fact that Njorthun was a goddess, while Njod was only a god, seems to have caused no embarrassment either to mythologists or philologists. And it is true, of course, that in the age of fables the divine life frequently suffered essential transformations, many of which were both strange and sudden.

It is quite clear that, on the bleak and rugged coast of Hordaland, the worship of the divinity that ruled the ocean would have something more than a local interest. It is also clear that even a heathen cult could scarcely flourish unless the sanctuary and its environment enjoyed a condition of relative peace and personal security. To ensure this condition the dwellers of the island seem at some early date to have formed themselves into a jurisdictional unit and to have called their island the Njod-*law*.<sup>1</sup> This name it continued to bear till the close of the middle ages.<sup>2</sup> It is a curious fact that the modern name, Tynen, is apparently derived from *Tyn*,<sup>3</sup> another Teutonic divinity, who evidently had a sanctuary in some other part of the same island.

It is believed that the idea of a social organism living under the rule of law gradually traveled northward along the coast, till the limits of Njod-*law* included three important fjords, or straits, in the area north and south of Bergen.<sup>4</sup> In the course of

<sup>1</sup> The name of the island is derived by Magnus Heide, *Fæderligninger* ("Kinship-relations") (Christiania, 1892) from *Tynning* of the Teutonic Society in Christiania, 1892.  
<sup>2</sup> But *gæde* would mean *Njorthun* (Christiania, 1898).

<sup>3</sup> The latest appearance of the name in a document seems to be in 1416.

<sup>4</sup> Old Engl. *Fygar Fim*.

cf. *East Angles, History of the Kingdom Angles* (New York, 1893), I, 104-107.

time the confederation was further enlarged by the adherence of several other tribes both to the north and to the south.

How long the center of this enlarged jurisdiction remained at the old sanctuary cannot be known; but in the earlier decades of the eleventh century, when the Christian missionary was pressing his first serious attack on the strongholds of the ancient faith, the public assembly of the confederation was holding its annual sessions somewhere on the shores of Gula-fjord, possibly on the little peninsula of Guløy, some sixty miles north of the fjord of Njard. This assembly was known as the Gulathing and the area itself as the Gulathingland.

Elsewhere in the land a similar development had gone forward with like results. The tribes bordering on the Trondhjem-fjord were sending their representatives to the peninsula of Frøya where they held the Frostathing.<sup>1</sup> North of Gula-fjord a wide jurisdiction centered at Fiskevold where the Hlaðarthing held its annual sessions.<sup>2</sup> In the eleventh century a few tribes in the northeast turned themselves into the Högathing law with its center at Hög (near the city of Sørporsborg).<sup>3</sup>

These four separate jurisdictions developed their own separate codes of law, considerable parts of which have come down to us.<sup>4</sup> The most important of these are the laws of the Gulathing and the Frostathing, which seem to have been preserved in a fairly complete form. The Gulathing law was evidently put into written form sometime in the first half of the eleventh century, when the land was emerging from heathendom. In its extant text, however, it apparently embodies a version prepared about 1100, or perhaps a little earlier, with certain amendments that were agreed to in 1184. The Frostathing law seems to have undergone several revisions; the extant version

<sup>1</sup> *Opusc.*, op. cit., pp. 113-114.

<sup>2</sup> *Opusc.*, pp. 115-116. The Hlaðarthing law seems to have been older than any of the other Norwegian laws.

<sup>3</sup> Probably in the latter decades of the eleventh century. Its organization is usually ascribed to about 1050 (1050-1055).

<sup>4</sup> These materials have been edited by E. Kjerfve, F. A. Munch, and others, and published in five volumes under the title *Frøysa þingis lög bók* (1857) *The Old Laws of Norway* (1867) (Christiania, 1867-68). Vol. 1 (also a single volume) appeared in London (then and still under the title).

dates in the main from the middle of the thirteenth century.<sup>1</sup>

The importance of these documents for the study of life and law in the Northern countries is readily appreciated; many of their enactments have their origin, however, far back in heathen times and they have, therefore, an added interest for all students of medieval ideas, because of the light that they shed on the legal ideas and the judicial methods of the Germanic peoples.

Like other Germanic laws the Old Norwegian "books" are properly concerned with fines and other forms of penalty; but unlike some of these they also deal somewhat explicitly with judicial methods and procedure. Though one would like to have additional information on many points, it is possible from the Old Norwegian codes to construct a fairly satisfactory account of the methods and the machinery employed by the public courts (and in private arbitration) in the effort to arrive at a just settlement of the disagreements of men.

Throughout all this legislation one finds the same fundamental principle, namely, that the dealings of men with men should, as far as possible, be made a matter of public knowledge. It was, therefore, held necessary to have a record made of the important features of every transaction that might later become a subject of litigation. Inasmuch as it was not possible to make written records in every case, even after the Christian clerk had brought an improved art of writing into the land, the record had to be made on the minds of men.<sup>2</sup> Where a modern litigant would bring a written deed or contract into the court, the Norseman of the eleventh century would bring in a group of men who had at some earlier time been called together to witness the arrangement that had since led to litigation.

Various expedients were employed to secure this publicity. Contracts and other agreements were frequently entered into at the public assembly, so that, as the law court is still sometimes called in Norse speech. Here witnesses were readily obtainable and the character of the occasion may have been regarded

<sup>1</sup> See *Olden's Farnago*. *Eight are the codes or books (Riddor) of the History of Norwegian Law* (Christiania, 1895), I, 40-47.

<sup>2</sup> This so-called *deikningar*, from the verb *deika*, to call upon to the attention of witnesses.

as giving an added sanction to the terms agreed upon. When the king's bailiff had lands to sell, they had to be offered and sold at the thing.<sup>1</sup> Land subject to the rules of *adit* right also had to be sold at the thing.<sup>2</sup> The formal conveyance of land seems always to have taken place before an assembly of men, usually at the thing, though the transaction might legally be consummated at a church, in an ale house, or on board an important ship.<sup>3</sup>

Secular business was very often transacted in the church yard, where men assembled regularly or could easily be brought together. Thus, if a man wished to forbid another to use a pasture, a wood lot, or a fishing ground,<sup>4</sup> or to harvest grain on land that was in dispute,<sup>5</sup> he could place a formal ban on the field or the pasture land by giving due notice at the church or at the thing. The law also required that, when a minor took over an inheritance, proper notice to this effect would have to be given at some public place.<sup>6</sup> In the same way a man could secure his claim to an imprisoned hearth by giving notice where many men are assembled that the hearth is leased and belongs to him.<sup>7</sup>

Another legally recognized and highly honored institution was the ale feast. An emancipated thrall was required by law to give what was called a *franchise ale*, brewed from a specified amount of malt, before he could enter into the full enjoyment of his new social status as a freeman.<sup>8</sup> To this festival he would invite his former master, and the fact of emancipation would thus be given a proper publicity. At the inheritance ale the heirs entered upon the grateful task of distributing the property of the departed owner.<sup>9</sup> This ale was usually given at the end

<sup>1</sup> *Sax.*, 102. *Constituting law and Feorthing law* will be regularly abbreviated to *Sax.* and *Feor.* The *Anglo-Saxons* usually refer to sections, not to pages. In the *Feorthing law* divisions are grouped into *frithscere* (friths) or *scandscere* (scandscere).

<sup>2</sup> *Sax.*, 103; *Feor.*, 10, 4. *Old* (unaffected) land could not be sold outside the king's land so long as a *frithscere* was willing to pay the price offered by an outsider.

<sup>3</sup> *Sax.*, 102.      <sup>4</sup> *Feor.*, 10, 14.      <sup>5</sup> *Sax.*, 101, 102.

<sup>6</sup> *Sax.*, 102. But only when certain earlier formalities had been neglected.

<sup>7</sup> *Sax.*, 101.

<sup>8</sup> *Sax.*, 101, where the process of emancipation is described; cf. *Feor.*, 10, 14.

<sup>9</sup> *Sax.*, 101, 102.

of a week or a month after the decease; it was also a proper occasion for creditors to appear with such claims against the estate as could be effectively supported by witnesses.<sup>10</sup> It may be added in passing that the church sought to give the inheritance a more solemn character by exacting that the priest should be present to bless the ale; such a feast was then called "scot's ale," the ale being drunk to promote the health of the departed in the other world.<sup>11</sup>

All forms of business, even such as might be regarded as essentially private, had to be completed in the presence of witnesses. If the contracting parties wished to have their rights thoroughly secured. All purchases had to be made in the presence of men called in to hear the terms of the bargain and to observe the payment of the price.<sup>12</sup> Land was leased and rent was paid under the same conditions.<sup>13</sup> When a man moved the first load of his belongings to a rented home, witnesses had to be present to note the fact.<sup>14</sup> All important matters of economy involved in marriage and guardianship<sup>15</sup> had to be revealed in this way. A certain number of neighbors were always invited to hear the terms of a betrothal<sup>16</sup> or of a legal separation. If such three had to be.<sup>17</sup> The children of a houseman could be disposed of only in the presence of witnesses.<sup>18</sup> Illegitimate children were adopted into the family in the presence of neighbors who came to observe the ceremony and to taste the ale.<sup>19</sup>

If a man came upon a stranded whale, he could proceed to cut it up only after he had secured competent witnesses,<sup>20</sup> since the entire boat would ordinarily not be awarded to the finder. The owner of a hawk, if he had bound it to the neck, could recover his right to the bird by stating before witnesses<sup>21</sup> that he

<sup>10</sup> *Ibid.*, 29, 31.      <sup>11</sup> *Ibid.*, 33.

<sup>12</sup> *Ibid.*, 29, 31, 33, 139; "a man to not paid unless witnesses have knowledge of the payment."

<sup>13</sup> *Ibid.*, 79; *Ibid.*, 31, 3, 37.

<sup>14</sup> *Ibid.*, 31, 1.

<sup>15</sup> *Ibid.*, 3, 39-41.

<sup>16</sup> *Ibid.*, 31; *Ibid.*, 31, 33.

<sup>17</sup> *Ibid.*, 34. "If a man wishes to separate from his wife, let him declare his intent to church that neither from neither the other's eyes and let witnesses witness thereon."

<sup>18</sup> *Ibid.*, 37.

<sup>19</sup> *Ibid.*, 31; *Ibid.*, 3, 1. The ceremony described was evidently a very ancient custom.

<sup>20</sup> *Ibid.*, 133; *Ibid.*, 31, 33.

had bound it."<sup>18</sup> Witnesses were also necessary to the legal identification of stolen property; the owner of such property was allowed to search the house of any one whom he suspected of being a thief, but only with the aid of witnesses.<sup>19</sup> The same rule was applied to the identification of property recovered from a ferry<sup>20</sup> or saved from a wrecked ship.<sup>21</sup>

The discussion thus far has been concerned chiefly with witnesses who were brought together to observe a transaction which was approaching the point of consummation, but which could not be legally consummated without their assistance. However, a certain form of disavowal was possible even after the transaction had been closed. Especially would this be true in matters of sale and purchase, where the buyer felt that he had suffered deception. If he should discover, for example, that a thrall whom he had recently bought had a serious fault or blemish, he had to summon witnesses and call the fault to their attention. The thrall might then be legally returned to the seller, but only in their presence and before the end of the month.<sup>22</sup>

The intent and purpose of all these requirements (and of many more that have not been mentioned) were that there might be a reliable body of capable witnesses to guide the judges in making their award in case of subsequent litigation. The laws of the Gulating state specifically that all lawsuits were to be determined according to the testimony of witnesses and such "gates" as might come to either litigant in the progress of the suit.<sup>23</sup> In the course of a normal lawsuit witnesses appeared at nearly all the important stages. The plaintiff began his suit by looking up his opponent and summoning him to be at his home by his fire-side and in his high seat on a specified day; this was called a "home summons" and had to be served before witnesses.<sup>24</sup> On the appointed day the plaintiff would take witnesses and go with them to the defendant's home to summon him to appear at the public court<sup>25</sup> or to demand restitution of property, in which case the suit would probably be heard by a

<sup>18</sup> *Ibid.*, 76.

<sup>19</sup> *Ibid.*, 100.

<sup>20</sup> *Ibid.*, 104.

<sup>21</sup> *Ibid.*, 104.

<sup>22</sup> *Ibid.*, 98.

<sup>23</sup> *Ibid.*, 98.

<sup>24</sup> *Ibid.*, 98 *et passim*.

<sup>25</sup> *Ibid.*, 98, 101 *et passim*.



slow, a sort of private tribunal the aim of which was to bring the contending parties into a friendly agreement.<sup>12</sup>

As the suit went forward in the normal way, witnesses to the various forms of witnesses had to be heard in their turn. If it appeared to the satisfaction of the thingmenn that the case had been brought before them in a legal manner, they would allow the suit to go on. The plaintiff would bring forward a group of men who could testify to the facts involved in the contention and would ask for a favorable judgment, which the thingmenn would render or refuse to render according as the evidence appeared to be.<sup>13</sup>

The witnesses heard at court were usually men who had been invited to hear the terms of a transaction and to watch its consummation; they were witnesses by request or by appointment. As noted above, however, men who had not been specifically summoned for this purpose might be in position to give pertinent information, even if this had been acquired only after the event had occurred. Evidence of this somewhat less reliable character was often heard in criminal trials, for crime, even in these violent days, was ordinarily not committed in the presence of spectators. When a home had received a visit from evil men, the householder would call in his neighbors to see what had been done and to look into the circumstances.<sup>14</sup> If a man had been wounded or otherwise severely injured or seriously molested, he was expected to show his injuries to whomever he could and on the same day, if possible.<sup>15</sup> In the legal action that was sure to follow, this man and others who had been invited to examine the wounds and to hear the account of what had occurred would be available as witnesses, in so far as they had been able to get at the pertinent facts.

The lawmakers of Old Norwegian times recognized the validity of what is often called the "unwritten law"; but they extended its application to six kinswomen in addition to the

<sup>12</sup> *Ibid.*, 77. The tribunal was also called a *skilling*; see *Frøysa þinglög*, 10 (after *Frøysa*, *líða* and *skilling*).

<sup>13</sup> The subject of court procedure in medieval Norway is discussed in *Ellis A. Holmboe's* *Enkeltretter i den ældre norsk ret* (Outline of legal procedure in Norway in its oldest form, Christiania, 1874).

<sup>14</sup> *Ibid.*, 115.

<sup>15</sup> *Ibid.*, 116.

wife.<sup>10</sup> If a husband or a kinsman were to slay a man who had violated this law, he would have to send for his neighbors at once to see what had been done.<sup>11</sup> Again, if a man were to kill a thief in his house or in his stockhouse, as he had a perfect right to do, he would have to proceed immediately to lay the facts before his assembled neighbors.<sup>12</sup>

Closely related to these requirements was the duty laid upon every man who had slain another on the highway or elsewhere to report his deed at the nearest homestead, if no one had been present to view the occurrence.<sup>13</sup> By thus assuming full responsibility for what he had done, he might be allowed to atone for his crime with a money payment; otherwise he would probably have to make the hard fate of an outlaw.

The human temper was not in good control in the medieval North, and deeds of violence were occasionally committed at public gatherings,<sup>14</sup> or in the sight of men who were accidentally present. It could also happen that men would come upon another man and slay him in the midst of an evil act. Such witnesses were called "eyewitnesses."<sup>15</sup> The courts were also instructed to hear evidence as to common rumors. If it is rumored that a man has been at work on a holy day, "witnesses to the fact of the rumor shall be heard in this way that one may testify and two shall confirm his testimony in cases involving three men. But in cases involving six men one may testify and four shall confirm, and they must be folkmen; and this shall be the form of the oath: I call God to witness that I have heard this [report] and that the rumor has floated about over three farms or more than three, but I do not know whether it is true or not."<sup>16</sup> Evidence as to rumor often had the same effect as the modern indictment; a man could not be convicted by such testimony but he could be forced to put forth a defense, usually by offering

<sup>10</sup> *Ibid.*, 106. This right was not peculiar to Scandinavia. See F. B. Rothemann, *The Laws of the English People* (New York: Oxford, 1902), pp. 10-11; Laws of Alfred, c. 101-2.

<sup>11</sup> *Ibid.*, 106.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, 106; *Foot.*, in. 7. If one witness of the deed accepted the accused man's statement, he might go on to the third.

<sup>14</sup> *Ibid.*, 107, 107; *Foot.*, in. 14, 14.

<sup>15</sup> *Ibid.* (revised). *Althing* could be proved by two eyewitnesses. *Ibid.*, 11, 8.

<sup>16</sup> *Foot.*, 11, 10.

to take the prescribed oath, with or without such help as the case might demand.<sup>10</sup>

The laws appear to have assumed that a case would ordinarily be decided on the evidence submitted by the plaintiff; still, the right of the defendant to produce counter-witnesses is expressly recognized, with the proviso, however, that he would have to find at least one more witness than the plaintiff had produced.<sup>11</sup> If he succeeded in this, the men who testified for the plaintiff would be given no evidence whatever.<sup>12</sup> But "if both sides produce the same number of witnesses, those who testify last are to be regarded as false witnesses, and they shall never again be allowed to testify in such a case and each one of them shall pay a fine of three marks to the king."<sup>13</sup> There is also an allusion to "better witnesses," but what is meant is not clear.<sup>14</sup>

The number of witnesses necessary to establish a fact varied with the business under consideration; but ordinarily two were deemed adequate, though larger numbers were thought desirable. The older law states that one witness is worthless and two are as good as ten if there are no counter-witnesses.<sup>15</sup> In rare cases, however, the testimony of a single witness was held to be sufficient. One was enough, for example, to prove that a man-slayer had given adequate notice of his deed.<sup>16</sup> In cases involving the right to redeem an idol, three witnesses might be required to establish the fact that the claimant actually did have allotted rights.<sup>17</sup> In suing to recover a debt, the creditor might have to make three formal demands on the debtor to pay what he owed him; four witnesses had to be present at the third demand.<sup>18</sup>

A witness must first of all be the bearer of pertinent information; but in certain classes of homicide additional qualifications were demanded. A thrall was ordinarily not allowed to testify; however, when the charge was forcible entry into a man's house and home, the testimony of a thrall or a bondswoman would be received as entirely competent.<sup>19</sup> In such

<sup>10</sup> *Stat.* II, §§ 20; II, § 2, § 28.

<sup>11</sup> *Stat.* 28, §§ 2; *Post.* 28, 29.

<sup>12</sup> *Stat.* 28.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.* 28. <sup>15</sup> *Ibid.* 28.

<sup>16</sup> *Ibid.* 120; "but he must also bring a testimony from his household."

<sup>17</sup> *Ibid.* 220.

<sup>18</sup> *Ibid.* 27.

<sup>19</sup> *Post.* 19, § 4.

men, ten, "one who is eight years old [may testify] as well as an older person." In suits involving manumission, the courts would hear only the testimony of free men of free birth.<sup>10</sup> Issues such as questions relating to allodial rights could be answered by such persons only as knew the traditions of the locality, the laws required that one who wished to redeem sold land would have to present as witnesses those men who had reached the age of twenty before the day of their fathers' death. Their testimony would further have to be confirmed by that of certain other witnesses who had reached the age of fifteen before their fathers died. Moreover, "all the witnesses to the sold must be men born to odd right, men who have odd land in the *fyld* where the land to be redeemed is located."<sup>11</sup> Another instance of confirmatory evidence appears in the younger law where it is enacted that, if a man charges another with having allowed a *ðilander* to remain unpunished, he must support his contention with the testimony of ten men: "Two men shall swear and eight shall confirm the statement."<sup>12</sup>

Witnesses to ordinary business transactions were expected to keep the important details in mind for a period of ten years.<sup>13</sup> After that time the transaction evidently could not be called into question, for the witnesses were excused from testifying. But if they had been called to witness the sale or conveyance of allodial land, they would be held to their duties for twenty years.<sup>14</sup> It seems that it was possible for these men to transfer the responsibility to others and presumably younger men; but four witnesses of this newer set were needed where two of the original witnesses had been sufficient.<sup>15</sup>

In certain cases the courts would also admit evidence of a circumstantial or material character. The possession of stolen goods was always sufficient to convict a thief.<sup>16</sup> When a stranded whale is found and there is doubt as to its size and value, "let the *finlar* bring the *dorval* for to the thing and let it

<sup>10</sup> *Hom.*, ii, 11. These witnesses had to be produced by the defendant, if his right to freedom was questioned.

<sup>11</sup> *Hom.*, 103. *Fyld* is the Norwegian word for *shire*.

<sup>12</sup> *Penal.*, v, 101.

<sup>13</sup> *Hom.*, v, 101.

<sup>14</sup> *Hom.*, v, 101, all. 1.

<sup>15</sup> *Hom.*, all. 1.

<sup>16</sup> *Hom.*, 104, 105; *Hom.*, 104, 105.

testify for him."<sup>4</sup> There might be cases of maiming where a bad shirt or bloody clothes would be offered to serve as one witness.<sup>5</sup> If a man had been set upon and wounded, one witness and the wound itself would be accepted by the thingmen as satisfying the normal requirement of two witnesses.<sup>6</sup>

These early lawmakers are quite clearly that when two sets of witnesses upheld contentions that are quite contradictory, one of the two must be wrong and probably guilty of bearing false witness. It was therefore a serious matter to be faced testifying for the losing side; for the law was disposed to deal severely with any one who was suspected of having given evidence to an untruth, whether the act was deliberate or the result of error. According to the Gulating law the witnesses on the losing side were to be regarded as "worthless witnesses": "they shall never again be allowed to testify in such a case, and each of them shall pay a fine of three marks to the king."<sup>7</sup>

The Frostathing law is even more severe: "men who are found to have testified in an untruth shall, each of them, owe a fine of three marks to the king and shall never be capable of bearing witness after that; nor shall they enjoy witnesses in their own behalf or have any right to claim statements."<sup>8</sup> It will be remembered that in Old Northern times witnesses were commonly of the *skirskotling* type: men whose attention had been specifically directed toward some particular transaction or proceeding, and although the thingmen understood perfectly that observers might find themselves in disagreement as to what had actually been done in the circumstances, they seem to have felt, nevertheless, that such disagreement was more often due to dishonesty or incompetence.

It is quite evident that the laws intended that all cases, both civil and criminal, should be decided, whenever possible, on the testimony of competent witnesses. At the same time it was recognized that the courts would often have to deal with suits and indictments which could not be determined

<sup>4</sup> Frost, *cit.*, 10, 11, 12, 13. "If he [a lost man] have testified [he had been, the land, and the tall him, etc., if he has no witnesses, then he shall have witnesses for him."

<sup>5</sup> Frost, *ib.*, 10.

<sup>6</sup> Frost, *ib.*, 11.

<sup>7</sup> Frost, 10.

<sup>8</sup> Frost, 11, 12.

by such procedure. This would be especially true when the question was a matter of criminal guilt, theft, for example, a crime with which the laws dealt somewhat extensively. There are many cases, even in our own efficient age, where suspicion is strong and definite, but where satisfactory evidence cannot be secured. In our own day and land such cases rarely come to trial; they are either dismissed by the grand jury, or dropped on the motion of the prosecuting attorney, or thrown out of court at some later stage of the proceedings.

In the Middle Ages, however, charges and accusations were not disposed of in such an easy manner, though there is no reason to believe that all indictments were heard in court even in those days. Still, it seems generally true, that when a man was charged with having been guilty of serious misdoing and the charges were preferred according to the prescriptions of law, it was his duty to clear himself, either by producing competent witnesses or by countering the accusation with an oath in the old Germanic way. We are not to infer from this, however, that the burden of proof rested on the defendant; ordinarily the accuser did not get very far without the help of witnesses. The only safe inference appears to be that the indictment, when properly presented, was in itself a form of proof, though not necessarily conclusive proof. It had at all times a greater virtue than the unsupported statement of the defendant; only when the refutation was confirmed by an oath, single or multiple, was it able to overcome the presumption of guilt already created when the plaintiff presented his indictment. If the offense alleged was regarded as being of a mild and not particularly heinous form, the defendant was able to satisfy the demands of justice with his own unsupported oath; in most cases, however, he would have to have the support of oath helpers.

It is difficult to understand the underlying principle of compurgation; and the problem becomes peculiarly difficult when one finds that the laws insist on regarding the oath helpers as a group of witnesses. That their testimony was looked upon as distinctly inferior to that presented by certain other classes of witnesses is not important, for the laws recognized various

class of witnesses whose evidence was also regarded as of inferior value.

The various kinds of witnesses encountered in the Old Norwegian laws (and the number is very large) have been grouped into five classes.<sup>16</sup> Of these the first and the highest are the men who were specially summoned to observe the course and to note the terms of a transaction, the men whom Norwegian students of law have called *disadvoting* witnesses. They were counted the most reliable of all those who were asked to give evidence; their standing in court was without question; and their statements could not be refuted by any form of oath or oath-helping.

Ranking next to these were those whose testimony was based on common knowledge or on facts that belonged to their own experience. If a dispute should arise about the location of boundary stones, the use of a road or a stream, or the duty to maintain a fence, it would be decided on the testimony of witnesses of this sort. Their standing in court was not so clear as that of those who had received a specific summons to come and to assist in the consummation of business as noted above; but such standing could be gained, and when it was acquired, these men became witnesses of the first class. Their testimony, too, was wholly immune against any attack by oath or compensation.

The third class was made up of "swearing witnesses," men who preferred charges against any one or who supported such charges. Of these there were many varieties: at one extreme there might be the affirmations of one who had actually suffered an injury; at the other were found those who retailed common rumour. But all these varieties were regarded as bringing less reliable testimony than the two classes referred to above. Their affirmations could sometimes be refuted by oath, or, on occasion, by the ordeal, if perjury was not alleged.

Still lower in the scale stood the confirming witnesses the use of whom was, however, very limited.<sup>17</sup> Like the witnesses of

<sup>16</sup> See *Swearing*, op. cit., p. 405. The classification is not entirely satisfactory but it has no practical value.

<sup>17</sup> See above, pp. 138-140.

criminal charges, these were not regarded as giving testimony of a very high quality. Their statements, too, might be successfully countered by oaths and oath helpers.

Finally there were the oath helpers who, as noted above, are frequently spoken of as witnesses in the older laws. In general their evidence is very much like that of the confirming witnesses, for both seem to have testified to belief rather than to positive knowledge. There was, however, this essential difference that oath helpers were always sworn while witnesses were ordinarily not required to make their affirmations upon oath. The younger law does, it is true, demand that ordinary testimony shall in certain contingencies be confirmed with an oath;<sup>17</sup> but this was doubtless an innovation and may have been due to the influence of canon law.

We may accept the conclusion that compurgators sworn to a belief only; at any rate they were not required to do anything more than that. A belief, however, usually has some basis, and we may be allowed to assume that in many cases it may have been founded on something actually approaching knowledge. Moreover, it must have been a rather strong belief; otherwise the compurgator would probably have refused to take the required oath. Perhaps it was also a belief commonly held in the community, for the courts took care that the defendant should not bring too many of his friends into the oath. Compurgators were apparently not obtained without some difficulty; for the accused was usually given several weeks to prepare for the oath-taking.<sup>18</sup> Evidently most men were reluctant to swear to a belief that was not based on substantial conviction.

The charges that could be related with a simple oath were not numerous; moreover, many of the offenses that could be dealt with in this way were unknown to the jurisprudence of earlier times, having come into the category of crimes with the introduction of the Christian faith and moral system. If a man was accused of having done labor on a holy day, he could clear himself by swearing that he had done it unwittingly.<sup>19</sup> The

<sup>17</sup> See *Presb.*, *introd.*, 14 ff. 2, 3, 35; 1, 35; 22, 11; 26, 2, 2, 7.

<sup>18</sup> See below, p. 122.

<sup>19</sup> *Presb.*, 2, 22.



some form of defense was allowed when a man had to meet the charge of having entertained an outlaw.<sup>17</sup> If a man was accused of having exposed his new-born child, his unsupported oath was accepted as a complete refutation.<sup>18</sup> Any doubt as to whether a child had been baptized could be resolved by the oath of some one who had performed the rite or had been present at the ceremony.<sup>19</sup>

A double oath is mentioned as sufficient to deny the legal existence of a petty inheritance,<sup>20</sup> but this form of oath seems never to have been used in criminal trials. The threefold oath, an oath taken by the accused and two oath helpers, was the form of proof most generally prescribed whenever the courts had to resort to compurgation. There is some reason to believe that this oath is the most ancient form of Norse purgation; at any rate, the fact that it bore its own proper name<sup>21</sup> would indicate that it had enjoyed a long history.

Unless the charge was one of peculiar gravity, it could be met successfully with two oath helpers. As a rule this was prescribed as the proper mode of proof in ordinary cases of arson,<sup>22</sup> theft,<sup>23</sup> assault,<sup>24</sup> mutilation,<sup>25</sup> rape,<sup>26</sup> unlawful cohabitation,<sup>27</sup> torture,<sup>28</sup> and damage to personal property.<sup>29</sup> A threefold oath was also required if a man was accused of having eaten flesh on fast days,<sup>30</sup> or of having placed something useless in another person's food.<sup>31</sup> If one was charged with having harbored an outlaw or of having had other dealings with him, he was allowed to make a denial on the same terms.<sup>32</sup> In the same way a three-

<sup>17</sup> *Ibid.*, ix, 9. Cf. *ibid.*, 104, where a threefold oath is required.

<sup>18</sup> *Frœd.*, i, 4. Cf. *Od.*, 10, where a father is permitted to have a defamed child re-purged in a church, not only after it has been baptized. In Sweden since a father was under an obligation to bring up a child when he visited in it so.

<sup>19</sup> *Frœd.*, ii, 4.

<sup>20</sup> *Ibid.*, 107. "Two oaths shall deny a tale of two men."

<sup>21</sup> *Ap-ðættir*. The term seems to mean the "trifling oath."

<sup>22</sup> *Frœd.*, xii, 14. Refusing lies in rape.

<sup>23</sup> *Ibid.*, 105, 106; *Frœd.*, vi, 14, 16.

<sup>24</sup> *Ibid.*, 111; where there are no visible signs of injury.

<sup>25</sup> *Frœd.*, vi, 45.      <sup>26</sup> *Ibid.*, 104.      <sup>27</sup> *Frœd.*, ii, 9. Cf. *Od.*, 10.

<sup>28</sup> *Ibid.*, 114.      <sup>29</sup> *Frœd.*, vi, 4. *Þessdælinga's* *slip* *skali*.

<sup>30</sup> *Ibid.*, 105.      <sup>31</sup> *Frœd.*, ii, 14.

<sup>32</sup> *Od.*, 144, 150. The accused was allowed to prove that he was ignorant of the outlawry.

Old oath would provide a satisfactory refutation in case a man was suspected of having slain his third<sup>10</sup> or of having pushed another person out over a cliff.<sup>11</sup>

There is mention of a double oath in the Frostathing law to be demanded in certain cases of theft where the circumstances do not seem to call for a double oath;<sup>12</sup> but it seems to have no other mention in either law. It was probably a form of recent origin and not known to the jurisdiction of the Gulathing.

The double oath was frequently prescribed in cases that grew out of alleged infractions of church law, especially in the area covered by the Gulathing law, where penalties appear to have been more severe than in the territory about the Trondheim-fjord. The laws of Gula provide for a proof of this sort: "in cases of theft, arson, damage to moveables, 'wood slasher,' tongue slasher, and evil deeds against women"; it was also required in cases growing out of "suits on the part of traitors and when a kinsman was accused of having taken revenge for a blood-rented thief."<sup>13</sup> Charges of scoffing, sorcery, and casual relations with kinswomen could be refuted in this way only.<sup>14</sup> The Frostathing law provides the double oath as satisfactory proof in cases of theft and destruction of property; among the crimes listed under this head are the stealing of cattle, silver, or seed grain, the killing of horses or other farm beasts, the destruction of a ship or a ship dock, and the burning of hay stacks outside the enclosure.<sup>15</sup> Charges of having committed the murder of a man to whom one had given the poison pledge, or of instigating the crime of treason-breaking could be successfully denied with two oath helpers.<sup>16</sup> To be accused of having actually committed such crimes was a more serious matter and such charges had to be met by a more exacting form of refutation.

The laws allude to a sevenfold oath called the 'grim oath,'<sup>17</sup> but they give no indication as to why or under what circumstances it had to be offered. Inasmuch as *grima* is the word for

<sup>10</sup> *Old.*, 100, but only when the body could no longer be suspected.

<sup>11</sup> *Old.*, 102.

<sup>12</sup> *Frost.*, iv, 5.

<sup>13</sup> *Old.*, 135. "Wood slasher was a form of defamation which consisted of the images of the victim or of churches/monasteries carved on wood.

<sup>14</sup> *Old.*, 105.

<sup>15</sup> *Frost.*, iv, 1-14.

<sup>16</sup> *Old.*, v, 15, iv, 14.

<sup>17</sup> *Old.*, 104.

mask and a 'grim man' was a masked bandit, it has been now justified that the grim oath was an oath demanded of men who were charged with having gone about in disguise to prey on their fellow men.

The most elaborate form of compurgation was the twelvefold oath which was prescribed when a man was seriously suspected of having committed murder or of having betrayed his king.<sup>121</sup> Certain forms of arson, such as burning a man's house or his crops, if they were within the bounds of the farmstead, were regarded as sufficiently heinous to be classed with murder and treason.<sup>122</sup>

The question how compurgators were chosen can be answered in part only. Ordinarily the defendant was allowed to select the greater number of his oath helpers; but quite frequently he had to find one or more of his supporters in a group selected by his opponent or by the court. The law therefore distinguishes between *unselected* and *selected* compurgators, the former being "selected" for the oath taker and the latter "accused" by him. It seems likely that the two compurgators in the threefold oath were both accused by the accused, but his choice was not strictly unrestricted. "The threefold oath shall be taken in this way: the accused himself shall swear and with him another of equal rank, one who is not closely related to him by blood or marriage; then there shall be a third, a free man of full age, one who can be held to account for word and deed."<sup>123</sup>

The composition of the sixfold oath is best described in the *Frutating* law. "And for the sixfold oath there shall be named six 'hansde' or the best freemen, if hansde are wanting. The prosecutor shall name half of the witnesses [oath helpers] and the defendant shall name half. He [the defendant] shall select one of the six; the second shall be his nearest kinsman; he himself shall be the third; and the other three shall be free men who are able to give account both for word and oath."<sup>124</sup>

The other law is less explicit. "Now six shall be named and ranged on both sides of the accused, men of his own rank; in

<sup>121</sup> *Sax.*, 102, 103; *Pres.*, 19, 2.

<sup>122</sup> *Pres.*, 19, 2. "so that the crime [arson] could be placed in degree of the."

<sup>123</sup> *Sax.*, 102.

<sup>124</sup> *Pres.*, 19, 11.

cases of theft and arson let him select two of these, but jodel one in other cases that call for the sixfold oath."<sup>100</sup> It seems correct to assume that the remaining three were found by the defendant, but whether he had a share in selecting the initial group of six cannot be determined. However, the practice in the northern area should lead us to conclude that they were chosen by the two parties to the suit.

"If the nine oath is to be taken, let three men be named and placed on either side of the accused, all men of equal rank with him, and let him have them all, himself being the seventh."<sup>101</sup> Here again we have no clue to the manner of selection, though it seems most likely that the men were all appointed by the court.

In the selection of comparators for the twelvefold oath the same principle seems to have been followed as in providing the supporters for the sixfold oath. In cases of murder and arson, says the Frostathing law, six men shall be chosen and placed "on either side of the accused, all to be men of equal rank with him; and let him have two of them and his nearest two kinsmen; let the accused himself be the fifth, and let him find seven oath helpers."<sup>102</sup> Once more one is left in doubt as to who selected the initial group of twelve; but the probabilities are that they were named by the two parties to the suit. This conclusion becomes almost a certainty when one compares the practices of the two jurisdictions. According to the Frostathing law the complainant was to select six and the defendant six. "And let them name twelve hawks from within the fylki or the best freemen, if hawks are wanting; neither kinsmen by marriage nor enemies shall be named."<sup>103</sup> The remaining provisions of the chapter resemble closely those of the older code.

In selecting the men who were to support his oath, the accused evidently had to exercise considerable care, for the courts apparently would allow only men of good standing in the community to participate in the purgation. It will be noted that the laws expect the oath-helping group to be composed in part of hawks or other freemen. A freeman in medieval Norway was a free husbandman, one who possessed a farm either in full

<sup>100</sup> *Ibid.*, 125.<sup>101</sup> *Ibid.*, 126.<sup>102</sup> *Ibid.*, 126.<sup>103</sup> *Frost.*, § 4.

ownership or held it by the tenure of a leasehold. A *hærd* was a freeman whose farm was allodial soil and who, therefore, stood a little higher in the social scale than the ordinary freeman. These and other restrictions made it quite impossible for the accused to pack the group with his friends or partisans.

Rural Norway was never thickly inhabited and each *hærd* no doubt often had to be sought beyond the limits of the defendant's own immediate neighborhood. In the northern area he was allowed to prevent men from anywhere within the fylki; but in that region the shires were quite small. The law recognizes the fact that finding suitable supporters might not be an easy task and therefore allows the defendant a period of ten weeks in which to prevent and take the oath.<sup>107</sup> When the charge was brought, however, very little time was allowed: "And the accused shall offer to take the oath at the king's garth in the fylki within three nights, unless he prefers to take it earlier."<sup>108</sup>

The oath was sworn in the presence of the complainant and usually at some place selected by him. This might be at his or any other man's homestead;<sup>109</sup> but the law appears to assume that the oath would more often be taken in or just outside a church.<sup>110</sup> "Holding the manhood in their hands, the men shall swear the twelvefold oath; but if one witness fails to swear, the entire oath falls."<sup>111</sup>

The last part of this statement is of peculiar significance. The companions evidently had to take the same oath in the same terms, and the group had to be unanimous. A single refusal to swear destroyed the validity of the oath taken by the other eleven men. If the oath failed in this or in any other way, the accused had to face serious consequences. "All twelvefold oaths, if they fail, lead to irreversible outlawry, as do the grim oath and the oaths taken to refute charges of theft and arson. All other sixfold oaths, if they fail, lead to ordinary outlawry.

<sup>107</sup> *Ibid.*, III, 11, 12, at *penult.* "The single unsupported oath might be sworn at any time "when he who demands it wishes to hear it and has a look for after to this," *Ibid.*, 112.

<sup>108</sup> *Frøst.*, IV, 1.

<sup>109</sup> *Ibid.*, IV, 4.

<sup>110</sup> *Ibid.*, III, 11, 112; *Frøst.*, IV, 1, at *penult.*

<sup>111</sup> *Frøst.*, IV, 1.

The threefold oath, when it fails, leads to such an outcome as may be agreed upon."<sup>14</sup>

If the accused was so unfortunately situated that he could find neither witnesses nor oath helpers to support his claim to a clean house, he had no resource but to go to the ordeal.<sup>15</sup> As this meant calling upon the Almighty to give testimony in the case, it was permitted in grave and very important matters only. If the person who had to submit to the ordeal was a man, it usually meant that he would have to walk over hot plowshares or carry the heated iron.<sup>16</sup> A woman, too, might be required to carry the iron, though sometimes she was sent to the boiling bath.<sup>17</sup>

The ordeal was apparently regarded as an expedient to be used chiefly in the trial of some of the graver offences against the laws of the church; it was, therefore, not used extensively in ordinary criminal litigation.<sup>18</sup> It was practised as the proper form of judicial proof if one had to meet the charges of having practiced sorcery, witchcraft, seducy, and other related sins,<sup>19</sup> all of which were the peculiar concerns of the disciplinary system and officials of the church. Questions of doubtful paternity were also on occasion referred to the judgment of God. If a man was legation and born abroad, he would have to prove his right to an inheritance by submitting to the ordeal.<sup>20</sup> In like manner, if a woman charged a man who was no longer living with being the father of her child, she would have to prove her contention by carrying the hot iron.<sup>21</sup>

It will be noted that in cases of this sort the burden of proof

<sup>14</sup> *Ord.*, 142. When the sentence was ordinary sentence, it was allowed to remain in suspense until an effort should have been made for the opposite by the case in order to its abolition on the basis of a satisfactory money payment. If this failed, the sentence was enforced.

<sup>15</sup> *Proc.*, 2, 40.

<sup>16</sup> *Ord.*, 44, 45, 126, 127, 128; *Proc.*, 2, 1, 25-26, 27-28, 29, 30, 31, 32.

<sup>17</sup> *Proc.*, 33, 34. See also *The Death Ride*, by H. A. Sullivan (New York, 1889), p. 200; *Customs and Usages*.

<sup>18</sup> *Proc.*, 2, 40. The ordeal was, however, allowed in inheritance of manslaughter, as when a man was slain abroad (*Ord.*, 126) or in a gang fight (*Proc.*, 30, 31). The execution of a dying man could also be nullified by the ordeal (*Ord.*, 126).

<sup>19</sup> *Ord.*, 44, 45; *Proc.*, 2, 31.

<sup>20</sup> *Proc.*, 26, 27. <sup>21</sup> *Ibid.*, 3, 1.

rested on the claimant. In 1118 Harald Gilleshof, the pretended son of King Magnus Barefoot, proved his claim to royal blood by walking over nine hot plowshares.<sup>101</sup> Ninety years later Inga of Fartveg carried the hot iron to prove that her son, the later King Håkon IV, was the son of Håkon III.<sup>102</sup>

One naturally wonders why some institution like the English jury did not develop in these Norwegian jurisdictions, where the testimony of witnesses was regarded as of such decisive import in all forms of litigation. For it is well understood that the jury in its earlier phase was essentially a body of witnesses. The English jury, however, had its origin in conditions which did not obtain in the North. The judges who went forth from the royal court or from the royal presence to hear pleas in the outlying shires can have had but little knowledge of local conditions in these or in any other shires except perhaps their own. Consequently they had to secure such information as they could from and in the community where the difficulty had arisen. This information they usually received from a representative committee of tenants and others, frequently to the number of twelve.

In Old Norwegian times the farmers and the burghers were all expected to attend the sessions of the regular public courts and also all the special or emergency sessions to which they might be regularly summoned. There were, of course, exceptions to this rule; valid excuses were always accepted, but the general duty was thoroughly understood. The thingmen of the Old Norwegian courts therefore did not continually have to ask the community for information; they were the community itself, present in person at the public assembly.

At the same time, the Norwegian thingmen do seem on occasion to have made use of judicial expedients which are strongly reminiscent of the actions of Henry II. Losses and damages and the value of property were normally estimated by qualified men and the law assumed that their findings would be

<sup>101</sup> Two histories had Harald as the son. See *Chronicle of the Kings of Norway*, ed. S. Laing (London, 1844), II, 126.

<sup>102</sup> The story of Inga (Fartveg Inga, 14) in S. W. Exner (London, 1884), pp. 49-50.

accepted by the court.<sup>12</sup> "As men estimate [or value] it" is a phrase that runs all through the medieval laws; and from their decision there was apparently no appeal. This practice resembles one of the early jury of assessment; though there is this difference that in Norway the assessors were apparently not required to confirm their findings with an oath.

In the Frostating law there is an enactment in which the employment of seeking information from the community seems to be employed. The section deals with disputes as to rights in the common and outlines the proper judicial procedure in such a case. "And as to the thing there shall be chosen twelve haubds of the twelve best freemen, if haubds are wanting, each litigant naming six from his own thing itself. And the complainant shall have any two of the twelve men whom he can get and who are able to serve as to whether the land belongs to him or is common land."<sup>13</sup> It may be objected that the twelve are chosen by the parties to the suit; but the selection is ordered by the court, and only the leading men of the community are allowed to serve. It may be further objected that only two are asked to give information and in behalf of the plaintiff only, in which the answer seems to be that the defendant does not need to prove his contention and that all the men chosen could not be expected to have the required information.

In the same law there is a curious bit of legislation with respect to men who compete in producing witnesses, either for the loss of contention or to make a good impression on their superiors. In such a case "there shall be summoned . . . twelve of the oldest and most capable freemen in the fylki, six for either side, men who have had no share in the dispute. . . . And the twelve who have been thus appointed shall estimate the worth of the testimony as seems to them most right before God."<sup>14</sup> The rule was apparently to be formulated on the sword of these men. This group, too, has a certain resemblance to an English jury; but it is to be noted that the men are chosen

<sup>12</sup> *Col.*, III, 274, at par. 10. In the later laws it is frequently provided that in case where one is charged the assessment shall be made by six or twelve men, one half of the number to be chosen by each litigant.

<sup>13</sup> *Frost.*, III, 7.

<sup>14</sup> *Ibid.*, III, 16.



by the *Ugenda* and that they are not required to confirm their decision with an oath.

A somewhat baffling provision appears in the Frostathing law in a series of instructions as to the proper procedure in cases of manslaughter when the slayer is not a resident of the district where the crime was committed. When the half of the slain man finds the criminal, "he shall summon him before a thing, and at that thing twelve free men who are not selected with helpers shall be competent to prove his innocence."<sup>17</sup> Whether one is allowed to say that in such a case the knowledge of the community is brought into the court is not clear; it is quite clear, however, that these twelve men can be classified neither as witnesses nor as oath helpers, as these terms were understood in the thirteenth century.

Closely resembling this enactment is one which allows a man accused of manslaughter to prove an alibi. "If he was present at a thing, or if he was at church or at a money-making or on a ship of the twelve-man class or larger, let the twelve *Ugenda* who were with him, free men and of full age, prove him guiltless of the crime."<sup>18</sup> It cannot be argued that these are oath helpers, for such a thing as a thirteenth-century oath is entirely unknown to Norwegian law; moreover, it seems quite evident that they are witnesses who testify to knowledge and not to belief.

In a section dealing with the black art, the older law provides that, if a woman is charged with undue familiarity with the powers of evil, or is accused of practicing witchcraft in its various forms, "the women shall be appraised, lawswomen whom men know to be good women, three to stand on either side of her; and they shall bear witness that she knows neither sorcery nor witchcraft. But if this testimony fails, it makes her liable to outlawry."<sup>19</sup> In this case the women were evidently all selected by the court. Their evidence was evidently regarded as based on something more substantial than mere belief, and it was therefore merely looked upon as a form of purgation. There is, moreover, no indication that the women were required to give their testimony on oath.

While these illustrations do not prove that the Old Norw-

<sup>17</sup> *Frost.*, ix, 1.

<sup>18</sup> *Skil.*, ix, 1.

<sup>19</sup> *Ibid.*, 25.

gian courts had developed a system comparable to the Norman-English inquest, some of them, at least, seem to show that the principle on which the early jury of witnesses was based was by no means unknown in those courts. Under more exacting conditions its occasional employment might have led to the development of an institution somewhat like the one that found its form in the English inquest. But whether or not one is willing to admit that these expedients indicate an approach to the English jury (and they have long been in debate), one is likely to agree that they lie outside the boundaries of the judicial system that is outlined in the Old Norwegian laws.

LARSEN AND M. LARSEN

# CLERICAL TENTHS LEVIED IN ENGLAND BY PAPAL AUTHORITY DURING THE REIGN OF EDWARD II

When Edward II became king, he fell heir to part of the pecuniary estate of a clerical subsidy imposed at his father's request by papal mandate. Twelve days after the election of Clement V,<sup>1</sup> Edward I ordered envoys, whose departure for the papal court had been postponed on account of the death of the preceding pope, to be prepared to set out for the court of the new pope on 8 July, 1305.<sup>2</sup> Though the business of the delegation is not stated in the royal letter, the shower of papal bulls which descended upon England leaves little doubt about one of its purposes. On 1 August, 1305,<sup>3</sup> Clement V commanded the clergy

<sup>1</sup> Clement V was elected on 2 June, 1305, *St. Malin, Les Papes d'Avignon* (Paris, 1888), p. 30. This was a remarkably rapid transit of news. The pope-elect, who was in London, did not leave his residence until 29 or 30 June that, p. 30. When Pope John XXI died on 20 May, 1277, the report of his death reached London after 4 days and letters to John II (R.A., vol. 70). John II died on 19 June; Clement V was elected in France.

<sup>2</sup> *Parl. Writs*, i, 120; *Pyson's Record*, ii, 124; *Cal. Chanc. Rolls, 1292-1307*, p. 487; *Cal. Pat. Rolls, 1292-1307*, p. 177. Still other royal commands were issued at the papal court before 10 October (Public Record Office, *Exchequer A.C. Records*, 1297-1311, p. 1).

<sup>3</sup> The date is generally given as 1305; R. Symson and R. Sanderson, *Statuta, Canonicon, Latinarum*, ed. J. Clarke and F. Hollander (London, 1902-03, cited *Statuta*), *Statuta*, i, 391-392; *Malin, Les Papes*, p. 376; J. Malin, *Peignieux and Bénédictines* (Paris, 1899), i, 302; V. Van, *Introduction to The History of John de Winton, Bishop of Carlisle*, A.D. 1297-1302 (London, 1910, Constable and Yale Books), i, 2, 101, note 1. Previously I also thought that to be the year, though the collection began before 1 August, 1305 (R.A., vol. 400-1001; A.C.A., vol. 28). The letters are dated "Hieronymus, Kalendis Augusti" (publication noted same place). Clement's first pontifical year was to be the first anniversary of his consecration. Since he was consecrated at Lyons on 15 November, 1304, a letter issued on 15 November of the first year at Villanueva near Barcelona (*Cal. Pap. Reg.*, ii, 10) was datable 1305. Clement began to set up popes, however, on 22 July, 1305; R. Salomon, *Primo-Papatus Avinionensis*, ed. M. Salin (Paris, 1912-16), Liber II, Clement, Clement P. et Philippus PP. & filii eius, 1305, p. 45. His letters issued between that time and the date of his consecration are also dated in the first year, e.g., *Pyson's Record*, ii, 129; *Statuta*, *Primo* iii, 20; *Statuta*, Clement P., p. 105. Since he was in Barcelona on the papal installation during August of both years (*Statuta*, *Primo*, i, 2, 24, 30, 31; *Statuta*, *Primo*, ii, 10-11; *Statuta*, *Les Papes*, p. 38), Clement, Clement P., pp. 17, 20-21; *Cal. Pap. Reg.*, ii, 1-20), it is difficult to say whether letters dated as above belong to 1304 or 1305. A copy of the bull ordering the levy of the first spiritual tenth incorporated in a letter

of the British Isles to pay these tenths. The first was for two years, the second for two, and the third for three. They were to run successively from 1 November, 1202.

The regulations governing the levy were identical for the three tenths.<sup>1</sup> All regular and secular clerics except the cardinals, the Templars, and the Hospitaliers<sup>2</sup> were to pay in semi-annual instalments at Midsummer and Christmas the tenth of their annual incomes as assessed in the valuation of 1181.<sup>3</sup> The collectors, who were the bishops of Lincoln and London,<sup>4</sup> were required to ensure to collect the tax honestly and zealously and to keep the pope informed of their activities. They were instructed to appoint deputy collectors in each diocese after consultation with the bishop and two members of the cathedral chapter, to bind them with an oath, to oversee their work, to receive from them the money collected, and to keep it subject to papal order concerning its disposal. They were empowered to inflict ecclesiastical censure upon those who failed to pay on time, notwithstanding any earlier papal exemptions to the contrary. They, in turn, conferred the power of canonical censure upon their deputies.

In those letters addressed to the clergy and the collectors which were intended for publication Clement announced that the tax was imposed to advance "the business of the Holy Land." The need of such aid he explained lengthily and ornately. "Because," he wrote, "both before and after the fortune of our promotion to the highest apostolic office we have written at Winchester on 25 April, 1200 (Epistolae 97, Baluz., I, 401-402) that the date of its conclusion was 1204.

<sup>1</sup> Found in the conclusion of the collection issued on 4 August (Epistolae 97, Baluz., I, 404-407; D. Wilson, *Crusades: History, Documents & Illustrations* (London, 1971), II, 800; Epistolae Abbatum et Monachorum, 1014; *Curiales and Texts* (L., pp. 107-108, 101-102; *Sancti Patris Muri, Epistolae et Archidiaconi* (Winchester, 1912), 101.

<sup>2</sup> *Apud nos* 161, *Abbas de Dunelm* and *abbates de Dunelm*, and *abbates de sancto benedicti* stated at least that all tenths were also exempt in practice (P.R.O., Exchequer D.T.S. *Baronial Accounts*, *Valuation*, *Acta*, etc., no. 9, m. 1), although they were not specified in the bull.

<sup>3</sup> The valuation was not specified in the conclusion but was used in practice.

<sup>4</sup> On 4 August the bishop of Coventry and Lichfield was associated with them (Elyon, *Parsons*, I, 102-103; P.R.O., *Epistolae*, 1014, 1015, 1016), but the sentence was reinforced and the documents issued in the name of the first two bishops alone.

often tasted the bitterness of the cup of oppressions extended over the Holy Land, which the impious hand of the Saracens, always eager to be drenched in Christian blood, wounds and lacerates, we have lamented and deplained her afflictions, and, as the result of sympathy, we share intimately with her the tortments of her grief. For avenging her — or rather our Saracens' — injuries, we propose to hasten, we intend to devote ourselves, and, with other cares laid entirely aside, to labour, as far as is permitted us from on high, by earnest entreaties, painstaking toil, unremitting vigilance, and watching and appropriate remedies lest that land should be uselessly destitute of the aid of Christ's faithful, or its promised ultimate restoration should be delayed for lack of the price of the costly things it needs.<sup>1</sup>

But deep as was his compassion for the woes of Jerusalem, his arrangement for the disposal of the proceeds of the tenths was notably different from what had become customary during the course of the thirteenth century. Collectors of earlier tenths for the crusades were instructed to deliver the receipts to the king only when he should actually set forth upon an expedition. Otherwise they were to deliver the money to agents designated by the pope.<sup>2</sup> The instructions were not always carried out literally. Edward I. in addition to a tenth paid to him for the crusade which he made,<sup>3</sup> secured more than half of the yield of all the other crusading tenths assembled in England previously during his reign.<sup>4</sup> But to have and to hold a share of the spoils he was compelled to undertake long and difficult negotiations,<sup>5</sup> and sometimes to resort to force.<sup>6</sup> Clement, in a series of letters not intended for publication,<sup>7</sup> authorized the collectors

<sup>1</sup> W. E. Lunt, *Palmerin of Rhodes* (Oxford, 1905), p. 25; *R.H.S.*, ser. 8th, *Byzant. Studies*, I, 197.

<sup>2</sup> *Les Règles de Clément X.*, ed. J. Bédarride (Paris, 1892-1893), *Statuts des Règles Souveraines d'Alphonse de Bruni*, no. 129, 129bis, 129bis A, 130.

<sup>3</sup> *R.H.S.*, ser. 8th, nos. 101, 102, 103, 104, 105, 106-108; *Byzant. Studies*, I, 197, *Pal. Bull.*, 1894-1895, no. 18; *P.R.S.*, *Archives Royal* (Paris, 87, 88, 89, 90), *Archives des Bells*, 84, 85; *Archives de l'Empire*, (Paris, Bells, 88-90).

<sup>4</sup> *E.g.*, *R.H.S.*, ser. 8th, 499-507.

<sup>5</sup> *E.g.*, *ibid.*, p. 414; *Libre Mémoires des Rois de France*, ed. J. M. (Paris, 1845), pp. 430-432.

<sup>6</sup> *Quoted from* *Grand Journal*, 1895; *Byzant. Studies*, I, 193-195; *P.R.S.*, *Papal Bulls*, 18/95, 20/95, 21/95; *R.H.S.*, *Mon. Bull.*, 1 Edward II, no. 140.

of the three tenths to deliver the proceeds to the enumerated recipients unconditionally. £20,000 was to be paid to Queen Margaret<sup>18</sup> to help sustain the burden of her charities, the fifth of the second year to the prince of Wales for a like purpose, and the remainder to Edward I "for the aid of the aforesaid land."

The Indian pretence that the tenths were granted for the benefit of the Holy Land was now dropped. On 18 January, 1293, the pope announced that he had reserved one-fourth of the income during four years<sup>19</sup> for the burdens and necessities of the Roman church,<sup>20</sup> and ordered the collectors of the tenths to deliver that amount to William Testa and his colleagues, the collectors of the papal revenues in the British Isles.<sup>21</sup> To this division of a portion of the funds Edward I agreed.<sup>22</sup> Another papal letter of the same date contained the statement that the tenths had been granted to the king originally not only to finance his crusade but also to support his "other necessities."<sup>23</sup>

From the first Edward I treated the tenths as if it had been granted for his own use. The collectors published their commission in Westminster and began to appoint their deputies on 20 April, 1293.<sup>24</sup> Within a month the king began to order the work of the deputy collectors,<sup>25</sup> whom the papal commission made responsible only to the principal collectors. At the command of king and council the dates established for the payment of the last three instalments of the first tenth were advanced. On 18 December, 1293, laypersons were being excommunicated for failure to render a payment which the papal mandate ad-

<sup>18</sup> In two yearly payments of 10,000 each.

<sup>19</sup> *Reges, Pontifices*, I, 1287-1288.

<sup>20</sup> *R.C. MSS. Vat.* 2 Edward I, Testa, *ibid.*, no. 120.

<sup>21</sup> *Reges, Pontifices*, I, 1293.

<sup>22</sup> *Register of Wales*, I, 129, 400; J. R. Hurry, *Reading Abbey Chronicle*, 1293, p. 102; *Memoria of Ranulph Merdon: The Chronicle and Book of the Collector-General of the Tithes of Hereby*, J.R. 1293-1297, ed. L. F. South (Oxford, 1929-1930, Series D. I, I, 121). The bulls apparently did not reach England until April, 1293. "The collectors say 'we received' the bulls on 21 April. The king has a letter to the pope, written probably in April, 1293, asking confirmation to be instructed about the bulls from Rome 'eventually received'." J.R.S., *ib.*, 126, note to Royal Commission on Historical Manuscripts, *Final Report* (London, 1928, esp. p. 26), no. 103. Early in 1293 Clement ordered to the point of the tenths as made while he resided at Lyons; *Reges, Pontifices*, I, 1293-1294. He was there from 1 November, 1292 to 2 March, 1293; *ib.* *Reg. Sup.*, II, 2, 13, 14, 15; *Lincoln, Christ P.*, pp. 62, 63.

<sup>23</sup> *Reges, Pontifices*, II, 1293; *Register of R. R. Anselm*, 1293/4, no. 2.

lowed to be made without penalty at any time before 22 December.<sup>17</sup> At the royal behest the deputy collectors made numerous payments from the exchequer to royal agents and recipients, receiving thereby tallies which the exchequer accepted from the collectors in place of cash.<sup>18</sup> They also delivered some of the money directly to the wastehke or the exchequer instead of to the principal collectors.<sup>19</sup> The king managed the collection of the tenth to suit himself, using much of the papal regulations as were to his advantage and disregarding others.

Before Edward I died,<sup>20</sup> £11,735 12s. ½d. of the yield of the first year had reached the exchequer.<sup>21</sup> Edward I received the remainder of the return from the first year and the whole of those from the second. When the final account was made with the principal collectors in 1213,<sup>22</sup> the first term amounted to £2,448 12s. 10d.<sup>23</sup> and the second to £18,668 8s. 1½d.<sup>24</sup> Whether Edward I or Edward II paid to the pope £2,118 18s. 1d. and to Queen Margaret £2,000 from the proceeds of the first year is not specified in the account.

The second tenth was never levied.<sup>25</sup> Since the grant was made to Edward I and was not to go into effect until 1 November, 1207, presumably the intervention of his death caused it to lapse.

The concession of the third tenth was renewed in favor of Edward II,<sup>26</sup> who received his father's approval of the appropria-

<sup>17</sup> *Chapter the First of Henry, I*, 174-177; *Wastehke of the Dean and Chapter of Westminster*, 14/1000-1001; *Exchequer R.R. Accounts*, 1001/02, no. 1.

<sup>18</sup> *Wastehke of the Dean and Chapter of Westminster*, 14/1000; *Exchequer R.R. Accounts*, 1001/02, p. 40; 1001/02, nos. 14, 15, 16, 18, 19.

<sup>19</sup> *Exchequer R.R. Accounts*, 1001/02, 1001/02; *Exchequer of Receipt, Misc. Roll 10*.

<sup>20</sup> On 7 July, 1207.

<sup>21</sup> These are the payments recorded up to 8 May. The next payment was on 14 July £200 s. *Fuller's Receipt Rolls*, nos. 127, 128, 129, 130. The third payment of the second year was not due from the wapentakes until May, 1208; *Chapter the First of Henry, I*, 180.

<sup>22</sup> *J. R. S., Finalized Accounts, Subsidium, Misc. nos. no. 4*, no. 1.

<sup>23</sup> The total charge against the collection was £24,287 8s. 1½d., and £221 12s. 1d. of that total remained uncollected.

<sup>24</sup> The collection was charged with £20,000 £ in 1½d., and the account was £2,512 8s. 1½d.

<sup>25</sup> *J. R. S.*, 120, 127, 128-29.

<sup>26</sup> *Rolls of different dates to the end of 1208*. On the date and the circumstances of the renewal see *J. R. S.*, 121, 122.

tion by the Holy See of a quarter of the proceeds.<sup>10</sup> The king published the renewed grant on 18 July, 1309,<sup>11</sup> and the collectors appointed their deputies on 17 August.<sup>12</sup> The first payment was received for 1 November, although it was not due until 24 June, 1310,<sup>13</sup> and the money began to be received by the exchequer on 5 November.<sup>14</sup> At the instance of the king, who repeatedly urged haste,<sup>15</sup> later payments were also anticipated.<sup>16</sup> Ashmole's view that the whole of the titheable tenth was paid within a year and a half<sup>17</sup> is somewhat exaggerated, but an expeditionary was it ascertained that on 15 February, 1312, two years and three months after the date of the first payment, only £2,000 remained to be collected.<sup>18</sup> Throughout the period the king further enhanced the availability of the proceeds by payment of his debts with orders drawn upon the deputy collectors.<sup>19</sup>

<sup>10</sup> E.R. Mann, *Roll of Edward II*, no. 140; Rymer, *Federa*, II, 50.

<sup>11</sup> *Cal. Close Rolls, 1307-1313*, p. 379. The copy of the grant was issued at the request of certain bishops and abbots to the king's bench (E.R. Mann, *Roll of Edward II*, no. 140) and to various persons, which included the request of the queen. Two monasteries, a collected chapter, and the order of St. Francis of Assisi. *Cal. Close Rolls, 1307-1313*, pp. 4, 24, 265, 267, 267-268, pp. 36, 37; *Cal. Doc. Rolls, 1307-1313*, p. 382.

<sup>12</sup> *Cal. Close Rolls, 1307-1313*, p. 387; L.R. Barclay, *Assessors, Subsidies, July 1309*, no. 2, no. 1.

<sup>13</sup> *Registres, Records de Richard II*, pp. 107-108. The collector states that this payment became due on 24 June, 1310, but the royal grant took 'per liberationem' to some corporations in June (Richard Fitzsimon to John Giffard B.E. 1309-1310, p. 22).

<sup>14</sup> *Folio Receipt Roll*, no. 158.

<sup>15</sup> *Cal. Close Rolls, 1307-1313*, pp. 426, 430-431; *Parl. Writs*, II, 1, p. 30; T. Martin, *The History and Antiquities of the Bishops of the Church of England*, Oxford (London, 1792), I, 78; *Cal. Chancery Warrants, 1314-1320*, p. 426.

<sup>16</sup> Several writs were issued by royal collectors, *Writings of the Dean and Chapter of Salisbury*, nos. 4-7; *Chapter and Book of Salisbury*, 1309; *Memoranda of the Dean and Chapter of Winchester*, 13-1795. In one instance at least the king's intervention assisted in the advance of the date of payment. The *Register of Walter de Stapledon, Bishop of Exeter* (1216-1290-1297), ed. P. G. Simpson-Wildridge (London, 1992), p. 181.

<sup>17</sup> *Quarta Edwardi de Censura*, 'Chronicle of the Reign of Edward I and Edward II', ed. W. Stubbs (London, 1884-85, Rolls Series), II, 58.

<sup>18</sup> E.R. Mann, *Roll of Edward II*, no. 58.

<sup>19</sup> *Roll of Edward II, Writs*, nos. no. 304; *Roll of Edward II, Writs*, *Cal. Parl. Rolls, 1307-1313*, pp. 426, 428, 430-431; *Cal. Close Rolls, 1307-1313*, pp. 388, 420; *Registres, Records de Richard II*, pp. 107-108; *The Register of Richard de Bury, Lord Bishop and Bishop of Exeter, 1292-1296*, ed. F. G. Bailey (London, 1973-75, Rolls Series), L.R. *Richard's Ordination in Parliament's Records* (London, 1980, no. 1000) (Continued), 1, 104; *The Letters of R. de Bury*, 1292-1296, *ibid.*, 105-106; *ibid.*, II, no. 14-15; *ibid.*, 1, 104, 105; *ibid.*, II, 14.



In the final account rendered in 1712<sup>10</sup> the bishops of Lincoln and London were debited with £61,000 lvs. 4s. 4d. The royal share was £41,000 lvs. 4s. 4d. and the papal £10,000 lvs. 4s. 4d. Of the former the collectors had delivered all but £8,750 lvs. 4s. 4d. and of the latter a large portion.<sup>11</sup>

When the pope renewed the grant of the triennial tenth, he also imposed an additional tenth to be collected in the following year.<sup>40</sup> He appointed the bishops of Lincoln and London collectors and gave to them the same powers that appear in their endowments. They were sharply informed that Edward III was directing his energies toward the Holy Land and for that reason was to receive the whole yield of the tenth.

The administration of this truth was subject to several vicissitudes. On 9 June, 1818, the king's council was much perturbed by news received from those returning from the council of Vienna that a truth was to be laid upon the clergy of the whole world for six years.<sup>10</sup> Fearing that the collection of two truths concurrently would damage the royal interests, the council advised the king to deliver the bulls granting the annual truth to the collectors with orders to proceed with the levy immediately.<sup>11</sup> The king despatched the bulls,<sup>12</sup> but the new

<sup>24</sup> L.T.R. Basilisk *Artemia*, *Salvelinus* *idus*, etc., no. 5 in lot. The amounts charged against the collection for each year were \$20,000 (to \$40,000, \$30,000 to \$40,000 and \$30,000 to \$40,000). Dr. J. H. Murray notes the amounts charged against the collection for the various campaigns the triplicate from the first year of the colonial treaty to the second year (1897-1898) amounts down to below "the Grande Trappe" granted by Nicholas during the last reign, which was still current, "except the receipt of the second year to the first, and those of the third to the second" without any reservation for the Holy See." A History of the Monarchy of the Kings of Poland (Warsaw, 1880), 2, 300-31, 302.

<sup>4</sup> E.H. Mann, *Bull. Liverpool U. N. Ser. Phil.*, vol. 10, 1951. An account of the progress of the special study is presented among the Miscellaneous Life Papers and Chapter 10, *Study Plans*, in Vol. 15, 1955.

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

<sup>24</sup> The English arrived in Hong Kong, after considerable delay, in early January, 1842, agreed to the terms of what is known as the Second Opium War, and the second session of the treaty on 2 April. R. F. Fung, *Populism and Christianity in the English Colonies* (London: P. W., 1972), I, 127, 132, 2, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**■ FCB: When Will I Need It? Today's Answer Is "Now"**

■ **On the July 2001 poll.** The responses of the managers who said "No" and

posed anticipation appears to have been rendered unnecessary by the postponement of the date for the first payment of the annual tenth to 1 October, 1312.<sup>16</sup> The king's tenth was collected at Midsummer and Christmas of 1312,<sup>17</sup> conflicting with the vicarial tenth in only one payment. A further difficulty arose when some delinquent taxpayers denied the validity of Clement's mandate after his death on 29 April, 1314. The king disposed of them with an order to the bishops to circumventants and report to the exchequer all such recalcitrants.<sup>18</sup>

These statutes did not interrupt seriously the flow of the payments into the royal exchequer. The king, indeed, spent a large portion of the money several months before it was due by paying debts with orders drawn upon the collectors<sup>19</sup> and by extensive loans from prelates on the tenth as partial security.<sup>20</sup> In 1312 the final account displayed the king in receipt of the whole sum of £10,700 *l.* 10*s.* 10*d.* except £1,000 *l.* 10*s.* 10*d.* of arrears. From the receipts £3,750 *l.* 10*s.* were deducted for the expenses of the collectors and their deputies during the six years while they had been collecting the Clementine tenth.<sup>21</sup>

After the render of this account a determined effort was made to recover the arrears of the three tenths, which amounted to more than £4,000. Sentences of excommunication and suspension from office were hurled about freely. The bishops were called upon by the king to add their resources to those of the collectors and to disburse upon the recalcitrant benefices of

Red's *History* king and council are recorded in a valuable account. *British Museum, Calendar 595, Nov.-Dec. 1312*, fol. 100.

<sup>16</sup> The toll, dated 1 December, 1312, states the arrears were to have begun the previous feast of St. Andrew: *Regesta Clementis*, i, 276-278; *Statutes of the Bishop of Salisbury, Register of Simon of Montfort*, fol. 130-131.

<sup>17</sup> L.T.S. *Unpublished documents, Salisbury, folio 100, no. 9, n. 2.*

<sup>18</sup> *Cal. Close Rolls, 1312-1313*, p. 109; *Regesta Clementis*, ii, 300-301.

<sup>19</sup> *Cal. Pat. Rolls, 1307-1313*, pp. 131, 132, 133, 137-137, pp. 13, 14; *Cal. Close Rolls, 1307-1313*, p. 109; 1312-1313, pp. 10, 11, 12; *Unpublished Letters Rolls, 1312-1313*, fol. 137. Most entries of the Bishop of Winchester, *Register of Warburton*, fol. 130.

<sup>20</sup> *Pat. Writs*, ii, 4, app. pp. 14-15; *Cal. Close Rolls, 1307-1313*, p. 103. *Statutes General de Salisbury, Episcopus Warburton*, fol. 137-137, fol. 137-137, fol. 137, fol. 137. *W. W. Capon* (London, 1908, Canterbury and York Soc.), pp. 485, 486, 487. *Arch. of Henry VIII* (London, 1908, Camden Soc.), p. 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

<sup>21</sup> L.T.S. *Unpublished documents, Salisbury, folio 100, no. 9, n. 2.* Henry sends the tenth from the composition of the clerical tithes. *Regesta*, ii, 301.

debts named by the endorser or by the collectors.<sup>10</sup> The papal collectors also joined in the levy and cry in behalf of the papal share.<sup>11</sup> Between 1815 and 1836 considerable sums were recovered,<sup>12</sup> but incomplete records render impossible a statement of the total. Even after the latter year small amounts of arrears continued to trickle into the exchequer.<sup>13</sup>

What the English clergy thought of these taxes is probably reflected in the distaff of the Monk of Melchiorbury against the papacy. "For eight years and more," he wrote, "Pope Clement V has ruled the universal church, but what good he has done for humanity escapes memory. At Vienna he assembled a council and disposed of the Temple, granted indulgences for the Holy Land, accumulated million money; but the Holy Land has profited not at all. He has converted tenths to kings and depopulated the churches of the poor. It would be better for the rectors of churches not to have a pope than to be harassed with so many exactions every day. But whether this can be done is not for me to discern, since it is a kind of meddling to dispute the power of the head. England alone among all the countries of the world feels the burdensome domination of the pope; for he pretenses to do many things from the fulness of his power, and without pause our people oppose him. All the fat incomes he reserves for himself, and opponents he promptly excommunicates; legates come and spoil the land; barons of his lands come and claim prebends. . . . Why does the pope encroach more upon the clergy than the imperial majesty and power upon the laity? For the emperor exacts nothing from

<sup>10</sup> *Memoranda of the Dean and Chapter of Westminster, 1817-1836* (Register of Westminster, vol. 100, 1887) (Memoranda of the Bishop of Salisbury, Register of Salisbury, I, cols. 142-143v., 146, 147b; *The Register of John de Beaufort and Edward de Beaufort, Bishops of Winchester 1413-1429*, ed. P. A. Huguenet (London, 1929, Clarendon Press), pp. 40, 42, 46, 50, 56; *Calendar of the Register of John de Stratford, Bishop of Bath and Wells, 1429-1439*, ed. Bishop Robinson (1907, Somerset Record Soc.), pp. 3, 4; *Register des de Chartres (1490-1509)*, ed. J. B. Sarrailh (Paris, 1910-1911), ed. A. T. Baudouin (London, 1910, Cambridge and York Eds.), pp. 14, 16.

<sup>11</sup> *Memoranda of the Dean and Chapter of St. Paul's, 1551-1559*, *Register of St. Paul's, 1551-1559*, ed. J. B. (1904).

<sup>12</sup> *Memoranda of the Dean and Chapter of St. Paul's, 1661*; *Memoranda of the Dean and Chapter of Westminster, 1617-1636*, 1636.

<sup>13</sup> *Calendar of Salisbury, 1713.*

any one without cause; the lord pope, whenever he wishes, translates, collates, and revises indiscriminately. Lord Jesus, either take away the power from our midst or lessen the power which he assumes over the people."<sup>10</sup>

Though the three preceding testhe were designated as subsidies to aid the English king in an attempt to reconquer the Holy Land, they were obviously intended to supply the needs of king and pope. The universal territorial testhe decreed at Vienna in 1212 may have been honestly designed to finance a crusade. An effort to recover the holy places in Jerusalem was still much discussed in Europe,<sup>11</sup> and at the period of the council there existed what appears to have been an earnest enthusiasm for the project.<sup>12</sup> The promise of Philip the Fair to depart for Syria within six years was announced at the second session.<sup>13</sup> Yet the fathers assembled at Vienna apparently did not feel sufficient confidence in the manifestation to induce them to support the proposed expedition heartily,<sup>14</sup> and some contemporary chroniclers openly voiced a suspicion that "the council was held for extorting money."<sup>15</sup> On the other hand, the proceeds were handled differently from those of the preceding testhe. They were not paid immediately to king or pope, but were deposited in cathedrals in the care of bishops and chap-

<sup>10</sup> "Pape, Edmund Secundus Anglorum Reuerendissimus" *Chronicle of the Reign of Edward I and Edward II*, I, 1, 287-288.

<sup>11</sup> A. Barth, *L'Eglise et l'Orient au moyen Age*, 561-61. (Paris, 1912), pp. 347-359, *Chronol. Christ. I*, pp. 377-388.

<sup>12</sup> *Chronol. Christ. I* gives a close analysis of the motives of Clement V and Philip IV. *Chronol. I*, pp. 377-388.

<sup>13</sup> *Index. Paganus*, II, 375. Edward II had expressed to the pope a desire to take part in a crusade. *Chronol. Christ. I*, p. 381, no. 48. In the spring of 1291 Philip is company with his son, Edward II, and a number of French nobles took the cross. *Index. Paganus*, II, 375; *R.P.*, 101, 102.

<sup>14</sup> They were recruited by the pope literally in national groups in France. All returned except the French, who held out till they had agreed with King Philip. *Index. Paganus*, I, 383, 3, 388, 375. But Walter of Hemmingburgh, a contemporary English chronicler, asserts that the council gave out but scanty aid in definite, negative *Chronol.*, ed. H. G. Baskerville (London, 1907) in *English Historical Rev.*, 1, 3, 375-376. The people with what is known of the method of financing other leaders at the council. *Chronol. Christ. I*, pp. 383, 385. It is noteworthy in this connection that opposition to the papal levy of clerical testhe was voiced at the council: *Index. Paganus* and *Index. Paganus*, I, 38-39.

<sup>15</sup> *Index. Paganus*, I, 38, 3. *Index. Paganus*, ed. H. G. Baskerville, *Chronol. Christ. I*, 3, 38.

ters, awaiting assignment to persons to be appointed subsequently by the pope.<sup>10</sup>

Innovations in the administration of this tenth<sup>11</sup> established precedents sometimes followed in later times.<sup>12</sup> In place of two English bishops directing the work in the whole of England and Wales, each bishop was made responsible for the collection in his own diocese. The bishops paid their own tenth subject "ipse heric" to those penalties for failure which the deputy collectors meted out to other delinquents. Each bishop appointed suitable deputy collectors to exact the tenth of ecclesiastical revenues from all the other clergy in his diocese except the military orders.<sup>13</sup> The deputy collectors were bound by an oath similar to that previously used.<sup>14</sup> They were required to deliver the twelfths to the bishop and to account both to him<sup>15</sup> and to papal agents. The bishops reported to the Holy See. Otherwise the methods of collection were the same as those used previously.

The collectors published their commissions and appointed their deputies during the summer of 1185.<sup>16</sup> The first two

<sup>10</sup> *Regestes Pontificum*, I, 277. The tenth of military tithes constituted an exception. The proceeds of the first three years were granted to Prince Philip of Flanders, who was engaged in defeating Angevin pretensions in France; *Regestes Clementis* Paper F, nos. 710, 720, 721; *ibidem*, I, Epist., p. 235.

<sup>11</sup> The commission of the collectors dated 1185; *Regestes Pontificum*, I, 277-278; *Epistae of Walter*, I, 10; *Regestes of the Monks of Worcester during the Pontificate of the Hon. ed. J. H. Ellis* (Oxford, 1887), Worcestershire Historical Soc., no. 174-175; *Regestes Clementis* Paper F, no. 693; *Epistae of Beaufort*, fol. 100v.-101; *Regestes of Simon of Eborac*, fol. 100; *Monumenta of the Bishop of Lincoln*, *Epistae of Eborac*, fol. 100v.; *Monumenta of the Dean and Chapter of Canterbury*, *Epistae* I, fol. 100v.-101.

<sup>12</sup> E.g., *Litterae Ordinis S. Pauli*, ed. F. R. Steppart (London, 1897-98, Rolls Series), I, 162-163.

<sup>13</sup> The clause differed somewhat in different dioceses, but it has been my practice, I suppose without harm, to cite as the point: *Regestes of the Monks of Worcester during the Pontificate of the Hon. ed. J. H. Ellis*, no. 170, but I have not discovered what practice was followed. Four hospitals and monasteries seem to have been exempted in practice; *Epistae of Walter Beaufort*, *Epistae of Worcester*, 188-189; no. R. 4. Wilson (London, 1901), Worcestershire Historical Soc., pp. 74, 75.

<sup>14</sup> The bishops sometimes appointed deputies to receive the twelfths; *Epistae of Eborac*, fol. 100v.

<sup>15</sup> Some bishops appointed deputies to audit the accounts; *Epistae of Beaufort*, fol. 100v.; *Calendar of the Epistae of Beaufort*, pp. 74, 75.

<sup>16</sup> The dates range from 1184 to 1185; *Regestes Pontificum*, I, 277; *Epistae of Beaufort*, p. 100; *Willes, Twelfths*, I, 109; *Monumenta Monasterii Cantuariensis*, *Regestes of the Monks of Worcester* (London, 1887), p. 189; R. H. Allen, *Roll*

semi-annual payments were collected on 1 October, 1313, and 1 April, 1314,<sup>17</sup> though large amounts were left unpaid.<sup>18</sup> Before the first term of the second year became due, the collectors received orders to suspend the levy of the remaining five years.<sup>19</sup> Since the prayer of the Monk of Malmesbury had been answered and the papacy was vacant, presumably the command came from the king. John XXII, the next pope, confirmed the suspension, and ordered its continuance for three years<sup>20</sup> and later for five.<sup>21</sup> The collection, however, was never resumed. The probable reason for the interruption was the need of Edward II to tax the English clergy for his own purposes.<sup>22</sup> Scotland was exerting more financial pressure upon the king than was the Holy Land.

Edward II secured all of this tenth which was collected in England and Wales. He acquired possession by methods akin to those which his father had often employed. On 26 April, 1314, after the death of Clement V, royal writs ordered the collectors to report to the exchequer the amounts collected and the places of deposit.<sup>23</sup> During the summer the king began to require the collectors to lend him sums from the deposits in

<sup>17</sup> Edward II, Malmesbury item, unnumbered item; Register of Henry of Ghent, fol. 109v; Register of Becket, fol. 140; Cambridge University Library, MS. 62. v. 10, fol. 180; Register of Walter de Grey, Bishop of Worcester, p. 70. The paper into was received in London on 11 July, 1313; Register of Henry of Ghent, fol. 109.

<sup>18</sup> Register of Becket, f. 141, 142; Register of the Bishop of Worcester during the Pontificate of the Pope, p. 130; Memorials of the House and Chapter of Worcester, 14, 130.

<sup>19</sup> Memorials of the Bishop of Exeter, fol. 130; Register of John de Beaufort and Edward de Caen, p. 16; Register of John de Beaufort, pp. 16, 17; Register of John de Beaufort, p. 16; Memorials of the House and Chapter of Worcester, 14, 130, 131; N.E. Stone, Ed., 11 Edward II, Malmesbury item, unnumbered item.

<sup>20</sup> A deputy collector published this order on 25 September, 1314; Chapter of the Bishop of Exeter, 1, 130.

<sup>21</sup> Letters of 20 March, 1317; Henry, Pontifex, 2, 130; Vol. Pap. Reg., 2, 410; 4. Thales, Four Documents Illustrating a Document Illustrating a Document, 1317, p. 130; N.E. Stone, Ed., 11 Edward II, m. 16; Lambeth Palace MS. 17, fol. 130.

<sup>22</sup> 21 April, 1317; Vol. Pap. Reg., 2, 410.

<sup>23</sup> On 21 March, 1314 the king asked the curators of Canterbury for a grant [Vol. Pap. Reg., 2, 410], though none was made till 1314. The clergy probably took part in 1313 and 1314 before pp. 130-131.

<sup>24</sup> Register of Henry, 2, 17; Register of Becket, 2, 130; Register of Becket, p. 130; Vol. Chanc. July, 1313-1314, p. 130.

their hands.<sup>10</sup> For the repayment of the loans English merchants, Italian bankers, and others gave security. The collectors were to be reimbursed from the receipts of the next aid granted by the clergy. After some £8,000 had been received on these terms,<sup>11</sup> Edward obtained the permission of the collectors to borrow the whole of the proceeds.<sup>12</sup> For the remainder sureties promised repayment before various dates in 1313, unless the clergy should previously grant a subsidy from which the collectors could reimburse themselves.<sup>13</sup> When the clergy made such a grant,<sup>14</sup> the king began to have writs authorizing the collectors to repay themselves.<sup>15</sup> Before they went into effect, however, he obtained a further postponement of the repayment until after the meeting of the next parliament,<sup>16</sup> though some collectors were loath to accede to the royal request.<sup>17</sup> At the parliament of Lincoln early in 1313 the prelates nullified the delay,<sup>18</sup> and the king again authorized the collectors to retain sums equivalent to their loans from the next subsidy voted by the clergy.<sup>19</sup>

By resorting to the pope the needy king avoided even this long-deferred payment. On 15 December, 1313, three months after John XXIII was consecrated, Edward II sent to the Roman court such an embassy as that with which Edward I had greeted

<sup>10</sup> *Cal. Close Rolls, 1282-1283*, pp. 130, 131; *Cal. Pat. Rolls, 1282-1283*, pp. 100, 101; *Pat. Writs & Lays*, p. 76; *Register of Roger de Wyke*, p. 405; *Memoranda of the Dean and Chapter of Lincoln*, *Trans. A. Soc.* 1, 154-5.

<sup>11</sup> *Pat. Writs & Lays*, p. 76; *Cal. Close Rolls, 1312-1313*, p. 121; *Cal. Pat. Rolls, 1312-1313*, pp. 100, 101.

<sup>12</sup> 1 October, 1313; *Cal. Close Rolls, 1313-1314*, no. 175, 176.

<sup>13</sup> *Register of Roger de Wyke*, nos. 469-471; *Calendar of the Register of Roger de Wyke*, n. 76; *Cal. Close Rolls, 1313-1314*, p. 121; *Manuscript Commission on Historical Manuscripts, First Report* (London, 1898), part 1, app. p. 86; *Hist. MSS. Comm., Calendar of the MSS. of the Dean and Chapter of Wells* (London, 1907-10), II, 490; *Brasen, Bristol*, II, 494.

<sup>14</sup> Such a grant was made in 1314 and continued until 1319.

<sup>15</sup> *Cal. Pat. Rolls, 1312-1313*, pp. 100, 101; *Register of Mortimer*, II, fol. 100v, 101v.

<sup>16</sup> *Cal. Pat. Rolls, 1313-1315*, nos. 427-429; *Register of Mortimer*, folio 100v-101v; *Register of Roger de Wyke*, nos. 469-471.

<sup>17</sup> *Register of Mortimer*, II, fol. 117v, 118, 119-120.

<sup>18</sup> *Cal. of the MSS. of the Dean and Chapter of Wells*, I, 490; *Register of Mortimer*, I, fol. 101.

<sup>19</sup> *Cal. Pat. Rolls, 1312-1313*, n. 425; *Cal. of the MSS. of the Dean and Chapter of Wells*, I, 490; *Register of Mortimer*, fol. 101.

Clement V.<sup>12</sup> It was laden with expensive gifts<sup>13</sup> and empowered to grant pensions to the cardinals at its discretion.<sup>14</sup> To its request for fiscal favors it found John XXIII as responsive as his predecessors had been. The survey informed the pope of the appropriation of the tenth by the king, gave assurance of their master's intention to make a crusade, and asked that he might be allowed to retain the money to relieve his debts.<sup>15</sup> The new pope was willing to help the king, but did not wish to divert the tenth imposed by the council of Vienne to new other than a crusade. He therefore suspended the collection of the remainder of the tenth<sup>16</sup> and established a new one to be paid to the king by the English clergy for one year during the period of the suspension.<sup>17</sup> He also lent to the king for five years the amount produced by the British Isles by the last year of the suspended tenth, directing the English prelates to deliver to the king all of the proceeds which he had not yet received.<sup>18</sup>

On the receipt of this remission Edward demanded from the collectors the immediate release of any money in their possession and the speedy recovery of arrears.<sup>19</sup> Collectors and laypersons who failed to respond promptly had their goods sequestered.<sup>20</sup>

<sup>12</sup> Rymer, *Feodera*, II, 595. Its officers are enjoined by the Bishop of Winchester, *Chronicle of the Reign of Edward I and Edward II*, I, 585. On the release of Edward I to Clement V, see, *ibid.*, 592, 593.

<sup>13</sup> *Medieval Documents Unpublished*, ed. E. M. Thompson (London, 1909, *Rolls Series*), pp. 41-46; P. Brown, *Notes of the Manuscript Collection*, 1867, p. 106; *Cal. Pap. Bulls*, 1573-1577, p. 406; *Archæologia*, 1891, 393-405. It seems at first sight that the royal gifts were worth 10,000 marks probably relative to this transaction. *Annales de la ville de Paris*, 15-17.

<sup>14</sup> Rymer, *Feodera*, II, 595; *Cal. Treasury Warrants*, 1573-1580, p. 410; *Archæologia*, 1891, 395. Later in 1377 the letters and laws of the pope of John XXIII ordered pensions from Edward and appointment to his household (*Cal. Pap. Bulls*, 1573-1577, pp. 40, 47, 48; Rymer, *Feodera*, II, 595).

<sup>15</sup> *Ibid.*, p. 595.

<sup>16</sup> *Ibid.*, p. 595.

<sup>17</sup> 25 March, 1377; Rymer, *Feodera*, II, 595; *Cal. Pap. Reg.*, II, 136, 137, 139; *R. S. Mss.*, B.1, 75; Edward II, p. 105.

<sup>18</sup> 25 March, 1377; Rymer, *Feodera*, II, 595; *Cal. Pap. Reg.*, II, 136, 137; *Sancti Edwardi Fidei*, 505, 510, 511, 1010. According to Ramsey the pope granted this tenth to Edward (*Ramsey*, II, 125).

<sup>19</sup> Notes in the archives of Canterbury were issued mainly on 16 June, 1377; *Cal. Close Rolls*, 1573-1583, pp. 479, 480; *Ibid.*, 1580, Canon, *Report on MSS. of Public Catalogue*, p. 95; *Cal. of the MSS. of the House and Chapter of Wells*, I, 179; *Register of John de Colton*, p. 1; *British Museum, Med. Charter*, 25 B-14; *Register of Archbishop*, I, 161, 162. *Windsor Park* went out in 1376-77; *Close Rolls*, 1573-1583, p. 410; *Report Commission on Historical Manuscripts*, *Second Report* (London, 1905), 200, pp. 179, 180.

<sup>20</sup> *Register of John de Sandak and Edward de Arden*, pp. 99, 10, 101; *Register John de Poles*, pp. 15, 16; *Register of Walter*, II, 153.



For the amounts involved the king issued to the collectors letters of indemnity<sup>11</sup> and to the pope letters obligatory promising repayment within five years.<sup>12</sup> The promise was not kept. Thus Edward II secured permanent possession of as much of the tenth derived by the council of Vienna as was ever levied in England. Its value cannot be stated exactly.<sup>13</sup> The sums acknowledged amounted to £17,455 lbs. 5s. 10d.,<sup>14</sup> but they did not represent the total receipts.<sup>15</sup> On the other hand, the amount was less than that produced by the preceding tenth, because the dioceses of Carlisle and Durham were so ravaged by the Scots that some of the clergy could not pay their quotas.<sup>16</sup> With allowance also for other hopeless debts and for the expenses of collection, the royal profits may be estimated to have been in the neighborhood of £10,000.<sup>17</sup>

The tenth granted by John XXII to the king "for relieving the burden of his debts and promoting the cause of the Holy Land"<sup>18</sup> was collected by the bishops of Winchester and Ex-

<sup>11</sup> *Pat. Rot. Bull.* (127-128), p. 144; *Reges, Anglor.* 2, 108; *Hist. MSS. Comm., Report on MSS. in Public Collections*, 2 (London, 1895), 76, 78.

<sup>12</sup> *Pat. Rot. Bull.* 2, 179; *J. Bate, Historical Papers and Letters from the Northern Bishops* (London, 1878; *Reissue*, 1911), pp. 170-171.

<sup>13</sup> Because the responsibility for the king in the form of loans, no specific amount of them can be stated.

<sup>14</sup> *Pat. Rot. Bull.* (127-128), pp. 170, 171, 180, 181, 182, 183, 184, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

<sup>15</sup> The amount of receipts of which I have found no record will suffice. The total receipts from the diocese of Carlisle which I have found amount to £2 lbs. Carlisle was exempted for the second tenth of 1213 at £137 lb. 12 s. 10 d. July, 1213, only £147 lb. of the second tenth was left unpaid to the diocese. *Report of Bishop*, 2, 108-109.

<sup>16</sup> Carlisle was levied both in 1213 and 1214. *Report of Bishop*, 2, 108. In 1213 the clergy of Carlisle still owed twenty-four of the tenth denarii and nine shillings. *Report of Bishop*, 2, 108-109, and from Durham, amount to £108 for the tenth of 1213. I have found record of the payment of only £108.

<sup>17</sup> For the second tenth of 1213 the amount was £10,750. *Ann.* (1214), 1247, and £120 for the third tenth to Durham, Carlisle, and other dioceses respectively, and £100 for the third of collection. Summary shows the receipts from this tenth at £10,827 lbs. 10 s. 10 d. according to *Ann.* 2, 11. *Annals of the Bishop of Durham*, 2, 114, 115, 116. The Bishop is probably the immediate successor of the second tenth granted by the pope in 1212 and collected in 1213, which summary does not mention.

<sup>18</sup> *Manuale of the Dean and Chapter of Winchester*, 1919, 1.

men.<sup>127</sup> They employed the administrative methods customary before the constitution of the council of Tenure.<sup>128</sup> The only general exemption was given to the possessor of single benefices assessed at less than six marks in the valuation.<sup>129</sup> The Hospitallers, who were required to contribute for the first time during Edward's reign, were allowed to compound for £200 because their incomes were not assessed in the copy of the valuation kept in the exchequer.<sup>130</sup> Though the year began on 1 September, 1277, the two payments were set for 1 June and 1 October, 1278.<sup>131</sup> The deputy collectors accounted to the bishop of Winchester in the autumn of 1278,<sup>132</sup> and his account was enrolled at the exchequer sometime after 1 November, 1278.<sup>133</sup>

For the levy of this tenth a new valuation was made in the province of York on account of the devastation wrought by the Scots. In the archdeaconry of Richmond an assessment compiled in 1277 for the levy of a tenth granted by the clergy was revised and used.<sup>134</sup> In the remainder of the province the king

<sup>127</sup>The bishop of Exeter was named and the archdeacons by the bishops of Winchester, Worcester, Bath and Exeter and Chapter of Norwich, *Registres Normans*, no. 124.

<sup>128</sup>This constitution appears in E.H. MSS., 102, 12 Edward II, no. 89.

<sup>129</sup>L.T.R. *Recorded Accounts, Subsidies*, 12th, no. 2, no. 71; R. Cole, *How much Subsistence of English Bishops in the Thirteenth and Fourteenth Centuries* (London, 1924, *Record Society*), p. 35. The deputy assessors were to have exempted the Ecclesiastical Calendar of the diocese of Exeter, fol. 29. The king granted some individual exemptions: *ibid.*, fol. 29a; *Pat. Rolls*, 1277-1278, pp. 289, 292, 293.

<sup>130</sup>E.H. MSS., 102, 12 Edward II, *Shrove term*.

<sup>131</sup>L.T.R. *Recorded Accounts, Subsidies*, 12th, no. 2, no. 71. In the province of York, and the diocese of Norwich inquiries were permitted to postpone payment to 1279. *Registres Normans*, no. 124; *Wastons of the House and Chapter of Norwich, Regestres Normans*, no. 125.

<sup>132</sup>*Regestres Normans*, nos. 129, 130, 131; *Calendar of the Deposits of Winchester*, p. 22. In one instance a deputy collector was ordered to account to justiciars: *Chancery Misc.*, bundle 15, 12-13, no. 50. The deputy collectors often paid their accounts directly to the exchequer or to the king's chamber: *ibid.*, *Pat. Rolls*, 1277-1278, p. 292; *Reg. Orig. Officia*, i, 126; L.T.R. *Recorded Accounts, Winchester*, no. 2, no. 71; *Chancery Misc.*, bundle 15, 12-13, no. 5; *Regestres Normans*, nos. 129-130, 131, 132.

<sup>133</sup>The assessed copy submitted for the assessment of the bishop of Winchester, who died on the same date. The king paid a large part of the proceeds before there were final sums of return shown as disbursements: *ibid.* no. 126; *Pat. Rolls*, 1277-1278, pp. 124, 127, 128, 129, 130; *Pat. Close Rolls*, 1277-1278, pp. 1, 2, 3, 4, 14, 16, 41, 44, 52, 54; *ibid.* *Chancery Misc.*, 1274-1275, p. 289; *Reg. Orig. Officia*, i, 127; *Regestres Normans*, nos. 127-128, 129, 130.

<sup>134</sup>*ibid.*, *Pat. Rolls*, 1277-1278, pp. 23, 130; *ibid.* *Close Rolls*, 1278-1279, p. 181; *The Charter of the Bishopric of Durham*, ed. F. C. Madox (London 1863), i, 1-2 (1277), p. 295; *Chancery Misc.*, 1279, nos. 1, 2.

ordered new assessments in 1276.<sup>121</sup> They reduced the tenth of the produce of York from £4,124 12s. 4½d. to £2,870 1s. 6½d.<sup>122</sup> For the remainder of the reign of Edward II all clerical subsidies granted to the king by clergy or pope were exacted on the basis of the new valuation.<sup>123</sup> The amount charged against the collection according to the new valuation was £12,400 7s. 18½d.<sup>124</sup> The expenses of the collectors were £407, and £2,740 were still in arrears when the account was cancelled.<sup>125</sup>

Soon after the second payment of this tenth had become due, Edward sought from the English clergy a tenth for the war against the Scots. The northern contribution complied.<sup>126</sup> The bishops of the northern province, doubting their ability to have all of the lower clergy to pay a subsidy, asked the pope to impose such a tax,<sup>127</sup> and despatched Adam Marsh to the papal court with their petition.<sup>128</sup> On 22 May, 1278, John XXIII replied favourably. He commanded the clergy of the province of Canterbury except the Hospitaliers to pay a tenth of their incomes during the ensuing year for the defence of the realm against the Scots,<sup>129</sup> and appointed the archbishop of Canter-

<sup>121</sup> Cal. Pat. Rolls, 1274-1281, p. 100; Cal. Close Rolls, 1274-1281, pp. 44, 45, 80; *Chronicon Roberti de Ricardi Secundi Patrimonii Pontificis Anno MCCCLXXI* (Oxford, 1908) (hereafter *C.R.*), p. 408; *Register Ricardi de Ricardi* (London, 1782), app. 87, p. 120; *Chronicon Robeti, 1272-1282*, 127-28. Further evidence of individual taxes was made late in 1274 and early in 1275—Cal. Pat. Rolls, 1275-1282, pp. 444-445, 450, 452; *Chronicon Robeti, 1272-1282*, 127-28.

<sup>122</sup> Based on the amounts charged against the collection L.T.R. *Exchequer Accounts*, *Subsidies*, 1276, 1277, 1278, 1279, 1280, 1281, 1282. The original returns to the royal writs are assembled in *Chronicon Robeti, 1272-1282*, 127-28 and 40-41. Some of the contemporary year returns are printed: *Register of Wotton, 2*, 127-128; *History Northern Register*, pp. 277-282. The *Sum Pontificis et Curie Romanensis Register Wotton* (hereafter *P. Pontificis* 17, *Curie A.R.* 129) (Oxford-Cambridge, 1902), is taken from later manuscripts.

<sup>123</sup> *Chronicon Robeti, 1272-1282*, 127; L.T.R. *Exchequer Accounts*, *Subsidies*, 1276, 1277, 1278, 1279, 1280, 1281, 1282; *Cal. Close Rolls, 1274-1281*, pp. 444, 445; *Annual Parliamentary and a Petition of Priests to Parliament* (n. p.), n. 15, 1-16.

<sup>124</sup> L.T.R. *Exchequer Accounts*, *Subsidies*, 1276, 1277, 1278, 1279, 1280, 1281, 1282.

<sup>125</sup> *Exchequer Accounts, 2*, 120; under this tenth item: *Remissiones*.

<sup>126</sup> *Register Ricardi de Ricardi*, *Officiis Regum Ricardi* (Project of Richard) (London, ed. R. C. Fowler (London, 1941), Canterbury and York Sec., third Register Ricardi) (Oxford), pp. 407-408; *Chronicon Robeti, 1272-1282*, 127-28.

<sup>127</sup> *Register Ricardi de Ricardi*, pp. 407-408.

<sup>128</sup> The king paid his expenses: *Register Ricardi de Ricardi*, *Officiis Regum Ricardi*, p. 41.

<sup>129</sup> *Register Ricardi de Ricardi*, 2, 408; R.C. *Close Rolls, 1274-1281*, 12 Edward II, no. 84.

bury and the bishop of London collectors.<sup>107</sup> Edward thus learned that it was easier to obtain taxes from his clergy by papal mandate than by clerical grant.

The collectors appointed their deputies on 8 August and established 18 October, 1212, and 12 February, 1213, as the dates for the two semi-annual payments.<sup>108</sup> These dates were too late to meet the pressing necessities of the king. Late in July he asked many prelates to advance the amounts of their tenths as loans for which they could reimburse themselves when the payments of the tenth became due.<sup>109</sup> Though Edward had previously employed this device successfully,<sup>110</sup> on this occasion he met with strong opposition. The abbot of Ramsey in his letter of regret voiced views which were common to many of his fellow prelates. "We," he wrote, "have been in times past and are now oppressed exceptionally by diverse exactions of tenths, promotions of cardinals, and other things (which need not be inserted in the present, since they are sufficiently apparent to those willing to observe them) on account of which, not being able to live on our own income for a long time past, we have been and are at present without money, and have been forced to accept the loan of foreign money, and we are very heavily obliged to diverse creditors."<sup>111</sup> In the diocese of Salisbury all except one of the prelates declined to make the requested loans.<sup>112</sup> The tenth was paid, however, with unusual promptitude. Perhaps the efficiency was due to the special agents whom the collectors appointed to receive the amounts of the deputy collectors, to collect the arrears, and to relax the conscience from the delinquent taxpayers as fast as they paid their debts.<sup>113</sup> The deputy collectors associated to them in the spring

<sup>107</sup> *Rolls: Epistolas Regium Cantuar.*, p. 200; *Roll: Reg.*, 2, 122; *Chron. Rotuli.*, 167a.

<sup>108</sup> *Chron. Rotuli.*, 167b; *Memorials of the King and Chapter of Canterbury*, Register I, fol. 105v; *Register of Marlborough*, 2, fol. 107v.

<sup>109</sup> *Proc. Writ.*, 2, 8, app., pp. 147, 148; *Register of Marlborough*, 2, fol. 108v; *Register of the Bishop of Exeter*, 2, 125.

<sup>110</sup> *Ibid.*, pp. 126, 128, 129.

<sup>111</sup> 2 September, 1212; *Constitution Monastical & Secular*, ed. P. A. Leves, 1 (London, 1902, Rolls Series), 202.

<sup>112</sup> *Register of Marlborough*, 2, fol. 108v., 109.

<sup>113</sup> They were Thomas de Bures and Richard de Bello; *London Priory MSS.*, Regis-

of 1210,<sup>127</sup> and the principal collectors accounted at the exchequer before the close of the fiscal year. The collectors were charged with £10,000 in 1210, from which they were allowed £200 for expenses. They delivered the remainder except £400 2d.<sup>128</sup> These arrears, as was customary, were turned over to the sheriff to collect. Within a year they had been reduced to £156 10s. 8d.<sup>129</sup>

After the difficulty experienced in obtaining the grant of this tenth, Edward did not trouble the clergy the next time he desired a similar tax. He went immediately to the pope,<sup>130</sup> who issued a mandate directing the clergy of England, Wales, and Ireland except the Hospitallers to pay to the king for the defence of his kingdom a tenth of their incomes during the following year.<sup>131</sup> The archbishops of Canterbury and Dublin and the bishop of London were named collectors.<sup>132</sup> On the petition of the bishop of London the king nominated the deputy collectors and held them responsible directly to the exchequer.<sup>133</sup> Thereby a new administrative practice was established. Deputy collectors of previous tenths had often rendered payments to the archbishops, but they were always given talien which the principal collectors presented at the final account with the exchequer.<sup>134</sup> The final account for this tenth was made by the

see of Hereford, fol. 107v; *Chron. 12th. cent. Report of the Deputy Keeper of the Public Record Office* (London, 1892), esp., p. 84, no. 1016; *Explorations Anglo-Normans*, p. 461.

<sup>127</sup> *Chron. 12th. cent.*, *passim*.

<sup>128</sup> E. F. B. *English Accounts, Subsidies 1210-1220*, no. 5, m. 6. *Summary Statement*, L, 140, 141, 142; *passim*; the return from this tenth to Dublin, ibid., 141.

<sup>129</sup> E. F. B. *English Accounts, Subsidies 1210-1220*, no. 5, m. 10.

<sup>130</sup> James of Wales, who represented the king at the papal court during the absence of Henry II., *Chron. 12th. cent.*, L, 140, 141; *Explorations Anglo-Normans*, p. 141; delivered the papal bull to the exchequer on 20 February, 1210; R.E. *Mon. Bull.*, 12 Edward II, no. 77.

<sup>131</sup> 12 December, 1210; *Explorations Anglo-Normans*, p. 461; *Cal. Pap. Reg.*, 2, 141. The king tried to collect from the Hospitallers, but abandoned the attempt. *Register of Master of the Hospitallers*, 1, 141, 142; *Cal. Close Rolls, 1210-1212*, p. 147. Payment of tenth taxes was exacted at first from the monks more strongly. *Chron. de Beauf. de Beauf.*, 1, 141. The king also exempted the incomes of two abbacies, of the bishop of Lincoln whose jurisdiction was in his hands, and of the bishop of Ely who had spent much in the king's business. *Cal. Close Rolls, 1210-1212*, no. 149, 157, 161, 162.

<sup>132</sup> *Continuation of the same chron.* *Explorations Anglo-Normans*, p. 461; *Cal. Pap. Reg.*, 2, 141.

<sup>133</sup> R. E. *Mon. Bull.*, 12 Edward II, *passim*, 149-155.

<sup>134</sup> The return exceptive to the tenth imposed by Richard I. After the death of

deputy collectors themselves.<sup>118</sup> The principal collector imposed on the deputies their commissions, empowering them to use ecclesiastical censures,<sup>119</sup> and exercised a general supervision over the work of the deputies,<sup>120</sup> but were relieved of direct responsibility for assembling the proceeds and accounting for them.<sup>121</sup> They appointed the deputies on 14 July, 1289, and fixed the dates of payment at 20 October, 1289, and 20 February, 1290.<sup>122</sup> The tenth of England and Wales produced a net yield of approximately £18,000.<sup>123</sup> Of this £8,458 represented arrears, of which the greater part was recovered in later years.<sup>124</sup>

Long before this tenth was paid, Edward was already appealing to the pope for another.<sup>125</sup> Though one of his surveys was promised the cancellation of a debt of 1,000 marks in the event of the successful outcome of his mission,<sup>126</sup> no tenth was forthcoming from that source. After this contretemps the king

thought Edward I forced the deputy collectors to deliver the proceeds to the exchequer and to account for them there. *J.R.S.*, *xxvii*, 194.

<sup>118</sup> *L.T.S. Breviary Documents*, *Voluntaries*, *fol.* 100, no. 8, *quarto*, *fol.* 4 (Willsaunt of the Dean and Chapter of Westminster, 1275). Apparently the deputy collector imposed on himself also to the principal collector.

<sup>119</sup> *J.R.S.*, *lxxxviii*, 12 (Edward II. to Pope, Register Stephen Bressard, p. 201).

<sup>120</sup> *Adm. Commissions*, I, 16; *Chancery Misc.*, *bundle* 19, *fol.* 5, no. 4.

<sup>121</sup> The method of administration was unpopular to the receiving capitulars levied during the reign.

<sup>122</sup> That it necessitated close supervision of the deputy collectors by the exchequer is reinforced by a royal writ of 12 October, 1289, ordering the bishops of London and Lincoln to deliver to the exchequer the register of the "collection" "ex parte hominum collectorum et clericorum decimarum impensis et expensis commensurabilibus" (homines collatores decimarum). *Rotuli*, *Patens*, II, 291.

<sup>123</sup> *J.R.S.*, *lxxxviii*, 12 (Edward II. to Pope, 1289). On 20 August, 1289, the principal collector returned the date of the first payment to 20 September. *Willsaunt of the Dean and Chapter of Westminster*, 78, 12759. The following year was followed by deputy collectors to Hampshire (ibid., *no.* 29, 12760, 12761) Willsaunt of the Dean and Chapter of Salisbury, *quarto* *no.* 1, *nos* 2 & 3, *British Library*, *Quarto Chapter 15*, *Calendar of Charters and Documents relating to Salisbury and its Abbey*, ed. W. D. Howes (London, 1881), *Harvard University*, p. 20.

<sup>124</sup> The collector was charged with £14,500 in all. This included some arrears which I have estimated at £1,000 and arrears amounting to £100 *nos.* 101 & 102, *Willsaunt Documents*, *Voluntaries*, *fol.* 100, no. 8, *quarto*, *fol.* 5. *Quarto* apparently another £10,000 paid the receipted £18,000 (4, 14) *Rotuli*, p. 103, 121.

<sup>125</sup> *L.T.S. Breviary Documents*, *Voluntaries*, *fol.* 100, no. 8, no. 9, Register of Marlshall, I, *fol.* 120v., 121; *Rotuli*, *Patens*, 100, 101, 102, 103; *Rotuli*, *Patens*, *lxxxviii*, 12, 13.

<sup>126</sup> Letters of exchequer issued to his surveyors dated 20 March, 1289 (*Rotuli*, *Patens*, 120, 121, 122, p. 201).

<sup>127</sup> *Ibid.*

turned to his clergy, though he did not neglect to raise his request to the pope.<sup>101</sup> Nearly simultaneously both petitions were answered favorably. On 28 April, 1213, John XXII ordered the clergy of England, Wales, and Ireland except the Hospitallers<sup>102</sup> to pay to the king for the defense of the realm a tenth for two years beginning on the next 20 May.<sup>103</sup> He commissioned the archbishop of Canterbury, the bishop of London, and the bishop-elect of Coventry and Lichfield as collectors.<sup>104</sup> In May, before this grant was known in England,<sup>105</sup> the clergy of both provinces rendered five pence to the mark.<sup>106</sup> The latter was collected first,<sup>107</sup> causing the postponement of the levy of the former. The king named the deputy collectors of the tenth on 24 January, 1213,<sup>108</sup> the bishop of Lichfield issued their commissions six days later,<sup>109</sup> and the first semi-annual payment, originally scheduled for 11 November, 1212,<sup>110</sup> was actually collected toward the last of February, 1213.<sup>111</sup> The remaining payments, however, were exacted according to the original schedule, the last one becoming due on 21 May, 1214.<sup>112</sup>

<sup>101</sup> An embassy for that purpose was given letters of credence on 8 December, 1212: *Byzant. Chron.*, I, 446; *Reynolds R.E. Sources*, 297-298, no. 15.

<sup>102</sup> Edward II later exempted the houses of the regulars: *Cal. Chanc. Rolls*, 252-253, pp. 429, 430.

<sup>103</sup> *Cal. Pap. Reg.*, I, 405-406.

<sup>104</sup> Commission of same date: *Willm. Cantua. L. & R. Mon. Roll*, 37 Edward II, no. 79.

<sup>105</sup> The collectors did not publish their commission until 26 June: "Ann. Parli.,<sup>1</sup> Chronicle of the Reign of Edward I and Edward II," 104.

<sup>106</sup> Calendar of the Signet of Westminster, p. 224, R.E. Mon. Roll, 37 Edward II, no. 80. The grant was made at parliament during May term: *Parli.*, p. 100; and at the nomination of Canterbury previous letters to James Parli. Writs, I, 4, p. 41b.

<sup>107</sup> *Chron. relating to Ireland*, p. 25.

<sup>108</sup> R.E. Mon. Roll, 37 Edward II, no. 78.

<sup>109</sup> *Manuscripts of the Dean and Chapter of Westminster*, 12/1213; *Manuscripts of the Dean and Chapter of Westminster*, Register I, fol. 100v. The bishop of Coventry and Lichfield seems to have performed all the work of the provincial collectors. In addition to the preceding documents, see Register of Roger de Mowbray to Petermann de Coltonap of Wykeham, at New Salt Ash, near (Birmingham): *ibidem*, fol. 100v. and 101. R.E. Mon. Roll, 37 Edward II, no. 78.

<sup>110</sup> The paper bull fixed the term at 11 November and the day of the Assumption: *Willm. Cantua. L.*, 124. The letter was sent May 10 and 21 May 1213.

<sup>111</sup> *Manuscripts of the Dean and Chapter of Westminster*, 12/1213, 1213; *Parli. Library*, Henry Chapter 104.

<sup>112</sup> *Chron. relating to Ireland*, p. 26; *Manuscripts of the Dean and Chapter of Westminster*, 12/1214, 1214, 1215.

In an account rendered in 1292 and 1294 the king had received from the two English provinces about £22,000 net, and the unpaid debts were over £4,000.<sup>122</sup> The greater part of the amount was probably recovered in later years.<sup>123</sup>

Of this tenth John XXII demanded a share. The royal messengers who secured the concession were informed that the pope reserved for himself a fourth of the proceeds,<sup>124</sup> though an intimation of division between king and pope appears in the bulls denouncing the levy.<sup>125</sup> On 17 September, 1293, the pope requested the payment of his portion.<sup>126</sup> Edward acknowledged his obligation, but professed himself unable to meet it for the time being.<sup>127</sup> The pope continued to make demands,<sup>128</sup> but it was a hopeless task to obtain money from Edward, who offered nothing in reply more substantial than excuses.<sup>129</sup> The only payment which the pope ever received from Edward II consisted of 2,000 florins (1275)<sup>130</sup> which the king sent by way of his embassy as a present, but which John XXIII chose to regard as an instalment on the sum due for his share of the tenth.<sup>131</sup>

To appreciate the advantage to the king of these tenths imposed on the clergy by papal mandate, it is necessary to compare them with the income-taxes which the king received from the English clergy as the result of their own grants. The concessions of clerical subsidies from the pope were obtained with ease at small cost. In return for the concession of eleven tenths which produced a net sum of approximately £200,000, Edward

<sup>122</sup> The collection was charged with *decime* 10s. 4d. The expense of collection was about one-third the amount due (see p. 181). The treasury had received about 10s. 4d. Of the remainder a small amount represented remissions granted by the king, and the rest had been absorbed by the clerics. J. V. H. *Financial Accounts, Subsidies, Aids, etc.*, no. 11, notes 19-24. Henry paid the surplus from this tenth as *decime* 10s. 4d. *Revenue*, 2, 148.

<sup>123</sup> *Reg.*, Register of Edward II, 1, fol. 261; P. R. S., Pipe Roll of Edward II, no. 19.

<sup>124</sup> *Reges, Pastors*, 2, 289; *Ord. Pap. Reg.*, 2, 400; P. R. S., *Papal Bulls*, 22, 5.

<sup>125</sup> *Bulls collected*, p. 271, notes 164, 165. See king's statement, *Revenue, Pastors*, 2, 282.

<sup>126</sup> *Reges, Pastors*, 2, 290.

<sup>127</sup> *Ibid.*, p. 291.

<sup>128</sup> *Ord. Pap. Reg.*, 2, 479-487.

<sup>129</sup> *Revenue, Pastors*, 2, 288.

<sup>130</sup> The share originally contributed to the sum of 10s. 4d. for a *decime*. At the time the rule varied from 1s. 4d. to 1s. 10s. *Ord. Pap. Reg.*, 2, 480.

<sup>131</sup> *Ord. Pap. Reg.*, 2, 481; E. Collin, *Die Einkünfte der englischen Krone unter Edward II* (Bielefeld, 1909), p. 496; *Papstur Archivalien, Collezioni etc.*, fol. 10; *Revue de l'histoire législative*, xiii, 301-302.



It allowed the pope to have a share amounting to about £18,000. Once a papal mandate had been secured, no appeal to the clergy was necessary. When the pope commanded the clergy to pay a tenth to the king, they had no option. They must obey or suffer ecclesiastical penalties that might extend to excommunication and suspension from office. A papal grant was executed by collectors appointed by the pope. In practice they worked largely under the direction of the king. Edward II exercised far more control over the collection of papal tithes than his father had done. He ordered the disposal of the proceeds, anticipated the dates of payment established by the papal bulls, exempted from payment whom he pleased, changed the assessment,<sup>100</sup> and gave orders to the collectors and also to the deputy collectors whom he sometimes practically appointed. Though Edward I had performed many of these acts, they had been done by him only occasionally and exceptionally. Before 1266 they were regarded as usurpations and proper causes for clerical or papal opposition.<sup>101</sup> With Edward II they became normal. Practically, the ecclesiastical revenues were directed by the king. The pope permitted the king for limited periods to have the use of a part of his plenitude of potestate over the clergy for the purpose of raising taxes.

The royal command was not sufficient for the levy of incomes from the clergy. Edward II always asked the consent of the clergy in parliament or in convocation before he taxed them by royal authority. Rarely could he obtain their consent without opposition.<sup>102</sup> Of eight requests for subsidies<sup>103</sup> two were refused outright.<sup>104</sup> On the six occasions when subsidies were

<sup>100</sup> In addition to the wills previously cited, see *Charters Relating*, 105/106.

<sup>101</sup> Similarly the temporal lands granted in 1215 should constitute an exception. It was however granted to the clergy, though they acted at the papal request, and the subsidy was levied by papal collectors (the *Register of Walter de Grey, Lord Archbishop of York, 1200-1213*, ed. W. Brown [London, 1904, London, Inc.], pp. 104-105; *Register of Stephen II*, nos. 184, 185; *Writs*, *Constitutions*, 2, 84).

<sup>102</sup> When he asked half of the revenues requested in the same year for a grant, it was accepted the two requests in 1266.

<sup>103</sup> On 1261 the king asked for 14d. in the pound (Ed. *Pat. Rolls*, 1257-1262, p. 242). The corporation of York refused; *History, Northern Department*, pp. 404-405; *Register of Hugh Desp'cher, 1258-1262* [I have not located what the corporation of Gloucester replied. It is referred to twice as opposing this request, but my search has not been exhaustive. Ramsey says "the Gloucestersmen agreed," and includes 1261 into therefore in his

voted, it was often done only after protest and delay. On 27 March, 1284, the king by writ ordered the archbishop of Canterbury to convene his convocation on the same day and at the same place as parliament to treat of a writ to the king.<sup>128</sup> When the assembly met on 18 May, the clergy objected that convocation could not be summoned by order of the king and asked to have the citation rescinded. It was so done, and another convocation met in June.<sup>129</sup> What action this convocation took does not appear. No grant was made until parliament met early in 1282. At that time, nearly a year after the original request, convocation authorized a tenth, though again the clergy protested the made of summons.<sup>130</sup> The subsidy was given grudgingly and made dependent upon many conditions. The king was to guarantee the liberty of the church, to observe the ordinances of the lords nobles, and to use the proceeds of the subsidy only for the common utility.<sup>131</sup> In 1288 the convocation of York had to be convoked four times before it finally conceded a tenth sought by the king.<sup>132</sup> Opposition to grants on such grounds as that a papal license was necessary,<sup>133</sup> that convocation could not be summoned to appear at the regular court of parliament,<sup>134</sup> that the clergy could not be compelled to assemble outside their own province,<sup>135</sup> that enough of the clergy were not present,<sup>136</sup> and that the clergy were too heavily burdened<sup>137</sup> was frequently raised in consequence. Obviously it followed the king of constitutional restrictions, of difficulties and delays, and of the danger of complete refusal, to tax the clergy on the authority of the pope.

attestation of the royal summons. *Rotulus* 2, 120. He then re-appeared for his taxation. The bill in the Exchequer by the clergy of the archbishopric of Cantuariæ was for the land tax of 1284, and not, as *Rotulus* asserts, for the king. *Rotulus*, *Parliament*, I, 46. The other instance of a denial was in 1289. *Parl. Writs*, II, 1, p. 764.

<sup>128</sup> *Parl. Writs*, I, II, p. 320.

<sup>129</sup> *Ibid.*, p. 129; *Rotulus*, *Parliament*, I, 462-463.

<sup>130</sup> *Rotulus of Convocation*, II, 122.

<sup>131</sup> *Rotulus*, *Rotulus de Religione*, p. 407; *Rotulus*, *Rotulus*, II, 120, note c; *Chronicle of the Bishop of Exeter*, II, 17. *Parl. Writs*, II, Supp., p. 196; *Cal. Pat. Rolls*, where 1287, p. 121.

<sup>132</sup> *Rotulus*, *Parliament*, I, 426.

<sup>133</sup> *Rotulus*, *Parliament*, *Rotulus*, p. 416; *Chronicle of the Bishop of Exeter*, I and Edward I, II, 426; *Parl. Writs*, I, 1, p. 344.

<sup>134</sup> *Rotulus of Convocation*, p. 122.

<sup>135</sup> *Parl. Writs*, I, II, p. 320.

<sup>136</sup> *Ibid.*

<sup>137</sup> *Rotulus*, *Parliament*, *Rotulus*, p. 416; *Parl. Writs*, I, 1, p. 344.

The computation of the amount received by Edward II from clerical subsidies authorized by clerical grant has to be based on estimate. A *Warrant* granted in 1287,<sup>127</sup> later passed in the mark on the spiritualities of the province of Canterbury in 1212,<sup>128</sup> a subsidy varying from eight to twelve pence in the mark on ecclesiastical benefices in different parts of the province of York in 1214,<sup>129</sup> and twelve from York in 1208-10 and 1212-13<sup>130</sup> do not appear in the enrolled accounts. The enrolled accounts of twelve granted in the province of Canterbury in 1212 and 1213 and of five pence in the mark from both provinces in 1209 seem to be incomplete.<sup>131</sup> Since all of the taxes were levied on incomes as assessed in 1204 or in 1212, an estimate is not liable to a high percentage of error.<sup>132</sup> Estimated on these bases, the net yield of these subsidies received by Edward II by his clergy reached the approximate total of £261,000.<sup>133</sup>

<sup>127</sup> Register of the House of Worcester during the minority of the King, no. 120-121; Register of Dispersions, no. 104, 105; *Depositions (Hutchinson)*, i, 299; *Depositions (Hutchinson)*, p. 461; *Proc. W. Co.*, i, 22, 11. Summary under this subsidy from the computer list of the revenues of Edward II, *Revenue*, i, 22, 120.

<sup>128</sup> The levy was authorized by a provincial council on 22 May, 1212, for provincial purposes (later allowing the Priory of Worcester, at 4, 50, *Writings* (London, 1930), *Worcestershire Historical Soc.*, p. 26. It was given to the King in 1210; *Proc. W. Co.*, i, 1, p. 100; *Writings*, *Concordia*, i, 402. The surplus remaining need be definite a smaller grant, but it has not formed the basis; *Writings*, *Concordia*, i, 402; *Depositions (Hutchinson)*, i, 221, 222.

<sup>129</sup> The archbishopric of Northumberland paid 2d. and that of Durham 1d.; *Depositions (Hutchinson)*, i, 422, 423. For the revenues of an estimate I have arbitrarily computed the amount of York at 12d. and that of Northland 2d. Summary under this subsidy from the computer list of clerical subsidies, *Revenue*, i, 120.

<sup>130</sup> *Writings*, *Concordia*, i, 402.

<sup>131</sup> *Cal. Pat. Rolls, 1272-1282*, p. 240; Robert White, *Feeling Records (Walsley, 1902)*, p. 209; *W. R. Thomas*, *Study*, 20 Edward II, no. 26.

<sup>132</sup> E. T. B. *Enrolled Accounts, Subsidies*, *July 1204*, no. 2, section 2-7.

<sup>133</sup> Calculated five per cent of the estimated gross yield for clerical collections, except tithes and tent shillings.

<sup>134</sup> Estimated as follows:

(1)	Warrants, 1209	£22,000
(2)	12. in mark, spiritualities, Canterbury, 1212	8,000
(3)	12d. to 12d. in mark, York, 1208	8,000
	York, Canterbury, 1212	12,000
(4)	York, York, 1208	8,000
	York, Canterbury, 1212	22,000
(5)	York, York, 1208	8,000
(6)	12. in mark, 1209	8,000
	Total	£261,000

*Revenue (Hutchinson)*, i, 120 estimates these items as follows: (1) warrants 22,000

Of the total yield of testes paid by the clergy of England and Wales at the papal order during the reign of Edward II the king received thirty-two per cent, and the papacy eight. Of the total of about £200,000 which Edward secured from subsidies paid to him by the clergy of England and Wales twenty-five per cent, was levied at the grant of the clergy and seventy-five per cent, at the papal order. These figures, taken in conjunction with the results of other recent research,<sup>100</sup> necessitate a revision of the traditional view that the reign of Edward II was a period when the papacy increased its sphere of influence in England at the expense of a rising royal authority.

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Ex. 461, 50 York cathedral, Canterbury. Ex. 464 Ex. 382, calling it a national agreement for *diversitas* etc., including some items from a papal treaty to Ireland, and concluding the national churchmen realize that year includes only the tests of Canterbury levied at the papal order in 1301, 50 £200 Ex. 382.

<sup>100</sup> *ESR.*, vi, 382-401; *ibid.*, 402-403.

## THE ANTI-FOREIGN MOVEMENT IN ENGLAND, 1181-1189

Late in the year 1181 began a series of attacks upon Italians resident in England, attacks with the avowed object of having them to give up their livings and leave the country. The manifest sympathy shown for the victims both among the English clergy and laity encouraged them to continue their attacks, and the movement soon reached such proportions as to threaten the expulsion of all the foreign clergy from the country. Since most of these foreigners had been placed in English benefices by papal provision the attacks upon them were really rebellion against the Curia itself, and a study of the situation is valuable for an insight into the relations between England and Rome in the early thirteenth century.

Opposition to certain papal policies had been developing in England for some time before 1181 so that the outbreaks of the close of that year could not have been entirely unexpected. The exaction of a tenth of ecclesiastical incomes in 1179 by papal mandate aroused much resentment among the clergy, especially because of the rigor with which the tax was collected, and many laymen disliked the idea of so much wealth being taken out of the kingdom. Yet objection to papal taxation was after all only a minor cause of the outbreaks of 1181-1182, since the factor essentially responsible for these disturbances seems to have been the granting of English church revenues to foreigners by papal mandate, a practice involving many abuses.

The dislike shown by Englishmen for these provision mandates may to some extent be ascribed to their comparative morality. While such mandates had been issued by popes before the middle of the twelfth century<sup>1</sup> few seem to have been made in England before 1143, and even the holders of some of them had difficulty in gaining possession of their benefices without papal intervention in their behalf.<sup>2</sup> After the coronation of King

<sup>1</sup> H. E. Hall, *Papal Provisions for Foreign Benefices in the Twelfth Century*, 1875, pp. 1-10.

<sup>2</sup> *Col. Pap. Reg.*, i, 4, 14.

John to the pope, however, a steadily increasing number of foreigners were provided with English livings. The opportunity of the Curia came with the dependence of John upon papal favour, and with the control exercised by the papacy over the English government during the early years of the minority of Henry III. Furthermore the presence of papal envoys in England during this period assisted the carrying out of provision, mandatum, and grade disbursement by the patrons of churches virtually impossible. Not only the pope but these envoys as well took full advantage of the opportunities afforded. Foreign currents and hospitals also benefited, since the pope induced members of the English clergy, as well as King John and King Henry III, to turn over church revenues to them.<sup>1</sup>

By the end of the year 1251 the number of foreigners thus granted English benefices must have been considerable, and the revenues paid to them undoubtedly constituted a serious drain upon the resources of the English church, even though an accurate estimate of the amount of revenues thus allocated is hardly possible with the records we have.<sup>2</sup> Yet even these incomplete reckonings show that several hundred English livings, at least, must have been in the possession of foreigners, nearly all of whom were Italians, and that every important English diocese contained a number of papal provisions.<sup>3</sup>

<sup>1</sup> Most of these nominations are in possession of at least one English church record, *J. H. B.*

<sup>2</sup> The papal registers for the period are manifestly inadequate since they do not include the names of one third of even those foreigners known to have been beneficed in England by 1255. English episcopal registers sometimes are preserved, sources of information, but only those for York and Lincoln are complete, and even these are obviously incomplete, thus not one of the half dozen foreigners mentioned in the papal registers as being beneficed in Lincoln is included. Hugh of Wells in his personal register recording a living there stated *Episcopus in illius ecc. ait. W. P. W. Philibertus et P. M. Euseb. Claretus*, 1207-16 *Canterbury and York Society*.

<sup>3</sup> The records for the period 1217-1251 show at least 20 benefices or parishes held by foreigners in the diocese of Lincoln alone, and the number of foreign holdings in other parts of England must have been proportionate, the registers in the papal registers show no more provisions mandatum for Lincoln than for the other large English dioceses. This conclusion the number of benefices and parishes in the possession of foreigners from about 1250 is a conservative estimate of the number effectively the records as including this period, to let them forward him. Undoubtedly this figure of benefices is too small since the records even for Lincoln are not complete and a number of holders of churches mentioned but be registers of Hugh of Wells may well be foreigners, although we are unable to identify them as such.

While we are unable to estimate with any certainty the burden of provisions upon the English church at large, we possess more definite information regarding the drain upon the revenues of certain monasteries and cathedrals. Thus a complaint by the monastery of Ramsey discloses the fact that in 1108 nearly a quarter of its revenues were being paid out to papal provision.<sup>1</sup> St. Mary's at York complained in 1122 that it was overburdened by grants to foreigners,<sup>2</sup> and we know of at least a score of other monasteries which were required to fill provision mandates. The burden upon English cathedral churches seems to have been quite as heavy, for at least a quarter of the revenues of Salisbury appear to have been alienated.<sup>3</sup> We have more complete data on the situation at Salisbury than in the case of the other cathedral churches, yet even the scanty sources at our disposal show that the proportion of foreign annuities must have been large in many of them.<sup>4</sup>

In addition to the drain imposed upon English ecclesiastical revenues by papal provisions, considerable sums of money also found their way to foreigners by grants of the English kings. In some cases these grants consisted of the award of churches, while in other instances they were pensions or gifts from the royal treasury. The dependence of John and Henry III upon the favor of the Curia seems to have been an important factor in such grants. Pensions and gifts were made to papal envoys in England and their servants,<sup>5</sup> to papal nephews, and to a number

<sup>1</sup> *Cal. Pap. Reg.*, I, 110. Ramsey was paying 150 marks a year out of a revenue estimated at 500 marks in 1100. *The Fabric of Ramsey*, ed. W. R. Loom (Oxford, 1885), pp. 18-19.

<sup>2</sup> *Les Églises de l'Anglais* (II, ed. L. Halley (Paris, 1900-1901), no. 1000. At least four of the churches of this monastery were in the hands of foreigners by 1122. *Recueil Épique de Willel.*, II, 109. *The Episcopate in Early Middle Ages*, *Ann. Association of Arch.*, ed. James Blythe, II, (London, 1898) (Episcopi Society), no. 80, pp. 70, 71, 82.

<sup>3</sup> *Early English Documents*, also known *Episcopate in England* (L. Halley), ed. W. H. Hall (London, 1893-95, Rolls Series), II, 87, 88, 95, 100. *Churches and Monasteries Illustrating the History of the Cathedral, City, and Bishops of Salisbury in the Middle Ages* (Oxford, ed. W. R. Inge and W. D. Mackenzie (London, 1899, Rolls Series), p. 105.

<sup>4</sup> There are references here and there to foreign prelates who held benefices in York (Episcopate of Willel. Reg., preface), and to a lesser number in other cathedrals.

<sup>5</sup> The legate, Gualter, and his servants were granted benefices. Undermining a pension of 50 marks (British Library Manuscripts, ed. T. B. Hardy (London, 1883-85), II (1883-84), 142), and additional grants to foreign prelates in Anagnino (ibid. and Man-

of the cardinals. These pensions burdened the English treasury with the payment of at least several hundred marks a year, and the royal council showed an increasing dislike for them. Several of the pensions granted by John remained unpaid for years in spite of the protests of the pensionaries and even of the pope, although Innocent III secured partial satisfaction in at least one case by threatening the king with drastic action. While Henry declared that he and his council did not consider the king bound to continue the pensions granted by John, he made at least part of the payments demanded.<sup>10</sup> The desire of the royal council to end these grants is shown by the payment of a lump sum of 400 marks to one pensionary to extinguish his claim,<sup>11</sup> and by the refusal in 1221 to grant a pension requested by the pope for a Roman.<sup>12</sup> The hand of Hubert de Burgh is undoubtedly to be seen in the attitude adopted by the English government.

Englishmen might resent the financial burden imposed by pensions but the papacy was constrained of the necessity of the practice for the support of the personnel of the central church organization.<sup>13</sup> The effort was made by the popes on several occasions to justify pensions to Englishmen and to induce acceptance of them. Such an attempt was made by Innocent III in a letter to the archbishop of York in 1200. He pointed out that ecclesiastics who resided at Rome and were members of the central church organization were as necessary for the welfare of the church as were members of the local clergy. To provide them with a suitable income it had become the practice of the

the, and to Innocent of St. Nicholas, his date 1202, 1. 1202-1203, 120, 107, 104, 1. 1275-1287, 3. *Patent Rolls of the reign of Henry III*, edited under the supervision of the Deputy Keeper of the Records (London, 1901-20-21), 1. (1201-1202), 78, 222.

<sup>10</sup> W. Freeman, *Henry, the First Chronological Foundation* . . . (London, 1910-20), 2, 189, 21, 22, 75. *Robert Litchamere Chronicles, 1202-1204*, 2, 108, 1212-1217, p. 12.

<sup>11</sup> *Patent Rolls, 1201-1202*, p. 222.

<sup>12</sup> Royal and other Writings from Illustrations of the reign of Henry III, ed. W. W. Skene (London, 1868, Rolls Series), 1, no. 1015. *Close Rolls of the reign of Henry III*, printed under the supervision of the Deputy Keeper of the Records (London, 1892-12), 1. (1207-1212), p. 222.

<sup>13</sup> Because the regular payment of interest was inadequate the Church had to accept (and even in the field of borrowing furnished upon many of its needs) in the of religious Rome. *Financial Foundations*, 2, 124.



papacy to grant them benefices in England and other lands while they continued to perform their duties at the Curia. Clergymen and ecclesiastics who permitted such provisions to be made should realize that they were benefiting themselves as well as the church at large, since they might expect the provision out of gratitude to look out for their interests.<sup>26</sup> Gregory IX justified the provision mandates issued by him on the ground of his responsibility for the welfare of the church at large, and the need of rewarding the devotion of his servants.<sup>27</sup> Yet these representations apparently had but slight success in allaying the hostility aroused by the provision mandates. Even if the papacy had been able to reconcile Englishmen to this deal upon their revenues as justified by the needs of the church at large, there were other abuses connected with provisions which aroused quite as much irritation in England. For those abuses the popes themselves were in large measure responsible.

Many benefices seem to have been awarded to foreigners not so much because of their services to the church as large as out of favoritism. Innocent III thus justified the grant of an English benefice to one of his liegemen in 1195 on the ground that his failure up to this time to make provision for his relatives had made them feel that he lacked affection for them.<sup>12</sup> Such a motive undoubtedly had much to do with the award of English livings to other papal relatives who were the beneficiaries of provision mandates, some of them thus securing possession of considerable revenues.<sup>13</sup> The cardinals also were permitted to aid their relatives from English revenues,<sup>14</sup> and the most common

<sup>12</sup> The *Illustrations of the Physical Parts and the Productions of, the River Niger/Nigeria*, 1879-80, *Windsor Castle*, in: *The Register of Windsor Castle*, p. 179. Most of these drawings had been employed by Bunsen in a report for a brochure for the use of his associates in 1851-52, p. 74b.

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† *Regenera (Shaw) Popov* [12] and *Regenera Ponomarev* [Nomen, 1959-60], nom. n. n. 1961, 1963, 1964, *Proc. Soc. L. 10*.

<sup>17</sup> V. S. Vukobratović, a collection of Georgian MSS. that is unfortunately classified (Bibliothèque de la Sorbonne, par. 12, 13; Cat. Pap. Orig., t. 124, 126). Egyptian Hieroglyphs (175, no. 2323). Pierre Belin, 1817-1817, p. 2. Hieroglyphs, 181, 181 and 181, mentioned by the Abbé, a nephew of Emmanuel, also held numerous treatises in England (Paris Egyptian Hieroglyphs, 1, 181, t. 1, by René-Louis Hieroglyphs, 1817-1817, pp. 18, 181). Hieroglyphs, 181, 181.

<sup>10</sup> Thomas is well-known to have had a long, somewhat troubled personal relationship to England's King

showed the granting of provisions to relatives of the lower officials of the Curia.<sup>17</sup> The papacy also seems to have felt obligated to gratify the requests of its servants in England for English livings for their servants and kinsmen, even though such permission allowed some of them to become notorious pluralists.<sup>18</sup> Such violations of the principle upon which the papacy professed to base the need of controlling provisions could hardly fail to make the whole system suspect in the eyes of Englishmen.

The Curia also secured assentment in England by making its provision mandates demands rather than requests, and by forcing donors, even when unwilling, to grant the benefices asked. In a number of cases the pope wrote to a recalcitrant donor insisting upon compliance, and at the same time directed his agents in England to see that the grant be made, using compulsion if necessary.<sup>19</sup> Frequently an English ecclesiastic would be directed to render the next benefice or patronal which appeared suitable upon some papal nominee, with the threat of suspension from office if he presumed to render it upon any one else, and the declaration that any other grant would be considered void.<sup>20</sup> Agents named by the pope would then see that this mandate was carried out, and the attitude adopted by them was frequently very high-handed.

The way in which one of these papal agents, John Romanus, subdean of York and himself an Italian provisor, carried out the mandates entrusted to him may be regarded as typical. Romanus

their relatives. John continued off. Provisors, thus looked out for two of his nephews (*Papal Bulls 1288-1290*, pp. 426, 428, 429-430/3, 431, 432) Stephen, nephew of the Bishop of the Tuscan Apennines, did almost as well for his kinsmen (*Epistolae Walteri* (1288), pp. 39, 50).

<sup>17</sup> *Epistolae Walteri* (1288), I, 50; *Papal Registrum Pontificatus*, I, 102-103; *Cal. Pap. Reg.*, I, 120; *Epistolae Walteri* (1288), I, 50.

<sup>18</sup> Belling, a nephew of the papal legate, and brother of St. Nicholas, Chichester's clerk, had an exceptionally large number of English benefices, and Chichester's other dependents did very well also out of it. Belling (Hampstead/Harshfield, while legate, requested his relatives and clerics to best a plurality of benefices in England, although the pope's written answer forbade such an abuse; *Registrum Walteri* (1288), I, 120, 121-122).

<sup>19</sup> *Cal. Pap. Reg.*, I, 14, 56, 56, 56.

<sup>20</sup> *Cal. Pap. Reg.*, I, 120; for another instance. Bishops of Winchester were directed that, when papal agents were granted assentment to provision any English living, they, declaring a benefice vacant for Romanus were provided for; Bishops of Winchester, *Papal Registrum*, vol. II, 54. Bunting (London, 1928-29, North-House), II, 24-27.

would first order the bishop who had been directed to fill a provision mandate to award no benefice to any man without consulting him.<sup>16</sup> If the living available happened to be too small to be desirable, or if the qualifications of the bishop's candidate seemed to justify a prior grant to him, Boniface might permit the papal mandate to be passed over, but with the stipulation that he was to have an option on the next vacant living.<sup>17</sup> Excommunication was threatened for any one who failed to obey these commands.<sup>18</sup> While members of the English clergy must have resented this dictatorial attitude of the papacy and its agents, and in some cases have attempted resistance, they seem in general to have obeyed rather than fall under the threatened penalties.<sup>19</sup>

That the prelates themselves were quite ready to accept benefices which had been kindly extracted from the English clergy was an important cause for their unpopularity. The action of one Italian in returning to the abbey of St. Albans a church he had received from that monastery by papal mandate, on the ground that his conscience would not permit him to retain a living obtained in such a manner, was evidently exceptional. The abbot, at all events, was so astonished by an honesty he had never before observed in a Dominican that he decided the prelate should keep his church as a reward for such an unusual and meritorious act. The chronicler of this event states in conclusion that while the pope and cardinals applauded the act of the prelate they made no effort to make others take similar action.<sup>20</sup>

The irritation felt by Englishmen at being compelled to fill provision mandates was intensified by the tendency of the Curia to be satisfied with the grant of only the most valuable livings. Even after a foreigner had been awarded a benefice, a donor might be ordered to allow him to exchange it for one of greater value which subsequently had fallen vacant.<sup>21</sup> So greatly

<sup>16</sup> *Papal Diplomas Decretales*, I, 280; I, 282.

<sup>17</sup> *Ibid.*, I, 282-283; *Reichs Regeste de Velle*, II, 178.

<sup>18</sup> *Papal Diplomas Decretales*, I, 282; *Reichs Regeste de Velle*, II, 180.

<sup>19</sup> In some instances the threat of excommunication must actually have been carried into effect: *Reichs Regeste de Velle*, III, 221.

<sup>20</sup> Thomas Walsingham, *Scripta ad Henricum Regem Anglorum* (ed. T. B. Bysshe Chetwood, 1885), *Bulla Sancti*, I, 287-288.

<sup>21</sup> *Ord. Pap. Reg.*, I, 28; *Diploma* (Pater Reg.) p. 12.

were foreigners for large benefices that even the holders of general provision mandates earned any living which was not worth more than twenty marks a year. Such an attitude must have occasioned many protests, for in 1220 Gregory IX judged it expedient to decree that if a benefice worth twenty marks a year was tendered to the holder of such a provision mandate it must be accepted.<sup>12</sup> Yet he still left it possible for a benefice of greater value to be demanded by a specific statement in any provision.<sup>13</sup>

Another annoying practice of the papacy was to require English ecclesiastics to furnish foreigners with pensions, stipulating that they were to be exchanged for benefices of equal or greater value when the latter became available.<sup>14</sup> This was such an easy method of satisfying the demands of papal protégés that it entailed a severe burden upon many English churches and became a legitimate cause of grievance. Some of these pensionaries refused to take benefices in exchange unless they were of considerable value, and this abuse became so flagrant that the papacy was obliged to stipulate that where a benefice was offered equal in value to the pension it must be accepted, or else the pension need no longer be paid.<sup>15</sup>

Very disturbing also to English churchmen was the tendency of the papacy upon the death or resignation of a foreign prelate to grant the benefice he had held to another alien. Whether or not this had become the regular practice of the Curia, as is charged in the chronicle of Evesham, it was certainly done quite frequently in the period before 1221,<sup>16</sup> and Honorius III himself admitted that the patron of such a benefice might well feel that

<sup>12</sup> *Regesta Vaticana* (Reg.), p. 126.

<sup>13</sup> Gregory's decision in the *additiones* of Turpin provides an Italian with a more valuable benefice than the one he already held may be cited as an illustration of this policy. Gregory then stated that this doublet was at least two marks, but a subsequent letter advised that it should be not less than three marks in value (*ibid.*, p. 12).

<sup>14</sup> *Donat Regesta de Wala*, ii, 120, 122, 123; *Regesta Vaticana* (Reg.), p. 121; *Ord. Pap. Reg.*, i, 125; *Chronica Monasterii*, ed. H. G. Luard (London, 1892-95, Rolls Series), i, 74; *Chronicon Monasterii de Evesham*, ed. H. H. Hall and F. G. Lenox-Chandos, 1886-87, Rolls Series, i, 122.

<sup>15</sup> *Ord. Pap. Reg.*, i, 124, 125.

<sup>16</sup> *Chronica Monasterii de Evesham*, ed. H. G. Luard (London, 1892, Rolls Series), p. 122. At least a dozen instances of this practice can be found in the records we have for this period.

he had been deprived permanently of his right of bestowal.<sup>10</sup> Because of the resentment aroused in England by this practice<sup>11</sup> Honorius III decreed in 1221 that when a benefice was given up by a foreigner for any reason the pope would not appoint the next holder, but the rights of the patron would be restored.<sup>12</sup> Yet in spite of this decree the practice was continued, and Gregory IX felt it necessary in 1230 to stress the promise of his predecessor, even though the importance of his concession was much weakened by the reservation that when the pope desired he might make exceptions to the decree.<sup>13</sup> Hence Englishmen would seem to have gained little by their protests.<sup>14</sup>

One of the most objectionable features connected with the possession of English benefices by foreigners was that so many of these prelates were far more interested in the revenues to be derived from their livings than in the religious duties connected with them. Where a provision mandate was filled by the grant of a pension the question of religious duties of course did not even enter in. Where a church was granted, the provisor would sometimes have it out, a practice relieving him both of all spiritual duties and of expense of administration while securing him a definite income,<sup>15</sup> or he might turn over part of the revenues of the church to a vicar who would perform the requisite duties and relieve him of responsibility. The matter of the non-residence of a provisor was held by the papacy to be no bar to his right to receive the income from a church, and even though the foreign canon of a cathedral chapter might reside out of England his portion of the revenues must none the less be paid him. Cathedral churches such as Salisbury and York, where so large a proportion of canons were non-resident, were especially inconvenienced, but every attempt of these churches to reduce

<sup>10</sup> *Regium Fidei Com.*, pp. 127-28.

<sup>11</sup> Thomas Langton seems to be virtually a cardinal protest against the practice when he went to Rome in 1215: *Anglica Monachia*, II, 74.

<sup>12</sup> *Regium Fidei Com.*, nos. 1015, 1016, 1018; *Regium Fidei Com.*, pp. 127-28; *Cal. Pap. Reg.*, I, 73.

<sup>13</sup> *Regium Fidei Com.*, nos. 1015; *Cal. Pap. Reg.*, I, 128; *Anglica Monachia*, I, 76.

<sup>14</sup> Shortly or January, 1230, Gregory IX made an exception to the promise to permit an Italian canonized master to give benefices: *Regium Fidei Com.*, nos. 1022, 1023.

<sup>15</sup> *Regium Fidei Com.*, nos. 1015, 1016, 1018; *Cal. Pap. Reg.*, I, 128; *Anglica Monachia*, I, 76. Chapter of Salisbury, p. 108.

residence upon their incomes was frustrated by the opposition of the Curia.<sup>66</sup> Even foreign prebends resident in England seem to have rendered very inadequate services for the revenues they received, for if they did take personal charge of their churches their inability to speak English would require the appointment of a chaplain who could attend to the needs of the parishioners.<sup>67</sup> Furthermore, many of these foreigners were in possession of several English benefices each, some holding half a dozen or more, and in their case the charge of exploitation of the English church by Rome was abundantly justified.<sup>68</sup>

The extensive use which the papacy made of foreign revolutionaries involved in England for the administration of the provision system was another reason for the unpopularity of the Italian prebends. They were able to keep the Curia informed as to benefices falling vacant in England, thus enabling the pope to make a specific demand of them from the patrons,<sup>69</sup> and they were frequently appointed papal agents to compel unwilling English prelates to fill provision vacancies. They also acted as protectors for prebends who wished to be installed by proxy in their benefices, and they saw to it that revenues were paid to non-resident foreigners or their representatives. Additional annoyance was caused the English clergy by the use made of these foreigners to keep Rome informed as to English church activities.<sup>70</sup>

Many English laymen resented quite as fiercely as the clergy the abuses connected with the beneficing of foreigners in England. Much of the revenue which had been raised by foreign prebends came from lands which had been granted to revolutionized institutions by these men or their forebears. They contended that such a disposal of these revenues was contrary to

<sup>66</sup> *Final Register of Benefices*, I, 384-385; *Col. Pap. Reg.*, I, 114-115.

<sup>67</sup> *Final Register of Benefices*, I, 40, 5, 29.

<sup>68</sup> While most foreigners were particularly notorious pluriaries, as for example Hugh Bosc, bishop of St. Omer, and John Bonagrat of York, the prevalence of the practice is denoted by the fact that even one-quarter of the highest prebends known to us during this period held more than one English benefice each.

<sup>69</sup> How close a watch they kept for vacancies is well brought out in numerous provision vacancies; *Col. Pap. Reg.*, I, 114, is an example.

<sup>70</sup> For example, this activity on *Col. Pap. Reg.*, I, 183, 187, 190; *Register of Bishop Eton*, nos. 171, 190; *Register of Bishop of Exeter*, p. 86; *Final Register of Benefices*, II, 10, 11, 12.

the original purpose of the donors, and hence urged the expulsion of foreigners and the return of the tithes to Englishmen. Even more essential was the fact that the Curia had in some cases placed foreigners in benefices the donation of which belonged to Englishmen without heeding the protests of the donors, and the latter were naturally desirous of ending such a practice.<sup>66</sup>

While both the English clergy and laity were growing more and more hostile to the policy of the Curia in the matter of provisions the attitude of Henry III remained uncertain. English kings had found the award of church revenues an easy and inexpensive method of rewarding their servants, and benefices were granted to Henry's officials not only from churches in his own gift but also as a result of papal provisions. Because of their mutual interest in the matter of provisions a policy of collaboration between pope and king would then seem to be natural. There were some cases of friction in the period before 1181: in one case a papal agent, John Romanus, sought to resist the award of a vacant prebend in Salisbury to a candidate named by the king, on the ground that it had already been reserved for the use of the papacy. Yet when Henry threatened to punish the Salisbury chapter for failure to comply with his command Romanus deemed it wise to yield.<sup>67</sup> Still, this incident seems primarily to have been due to an overcautious papal agent, for in other cases of clerical appointments the Curia appears in general to have respected the claims of the king. Both self-interest and his general feeling of dependence upon Rome would thus make Henry an uncertain ally if his subjects determined to resist the Curia in the matter of foreign provisions, although Englishmen would be encouraged by the support of Robert de Barchin and other members of the royal council who resented the intrusion of foreigners.<sup>68</sup>

The resort of Englishmen to violent measures in 1181 does

<sup>66</sup> *Register of Henry III.*, no. 371. *Acts of William*, II, 16-17.

<sup>67</sup> *First Register of Henry III.*, II, 100-101.

<sup>68</sup> The amount of control exercised by Henry III over the English government during this period is difficult to estimate. In some respects Robert de Barchin was the real ruler of England, even after the king's final coming of age in 1185, but Henry, even then, had a word of his own, and his views naturally bore approval as well as rejection after Christmas, 1188, even though he relied as a rule upon the advice of his justices. E. Suggs, *The Ministry of Henry III* (London, 1914), p. 102.

not seem to have been due to any new policy on the part of the papacy in regard to provisions. As has been pointed out, resentment had been developing for some time in regard to both the burden of provisions and the abuses connected with them, and the failure of the Curia to remedy the situation made open resistance appear the only recourse. The resentment of a knight, Sir Robert Twenge, because of the forcible intrusion of an Italian into a church of which he was the donor, may have helped to precipitate matters, but Twenge's activities seem to have been but part of a general anti-foreign movement.

The first evidence of organized resistance is to be observed in the fall of 1311, when letters were sent to English bishops and monastic houses by an organization purporting to represent all those Englishmen who preferred to die rather than longer to be oppressed by the Romans. In these letters a long list of grievances was listed against Rome, most of them due to the provision system, and the intention was expressed of driving from the country those foreigners who were in possession of English benefices. The authors of these letters declared that they were backed in this project by both nobles and commoners of the realm. Bishops and monks were warned not to hamper this campaign in any way, under penalty of having their own property destroyed and their persons endangered, and they were ordered to cooperate with the anti-foreign organization by paying over to its agents the sums which were owed to the foreign clergy.<sup>18</sup>

That the conspirators were serious in their intentions was shown by an attack in December, 1311, by a number of men, armed and masked, upon a group of foreign clergy who had just left St. Albans where they had been attending a church council. One Italian, Clericus, was captured and only released several weeks later after the payment of a large ransom, while the others seem to have escaped but remained in hiding in fear of their lives.<sup>19</sup> At about the same time the confiscation of the goods of

<sup>18</sup> *Register of Nicholas III*, 10-15. The authors of these letters declared that they were acting "for common people's salvation." The representation of two monks as the authors of these letters was signed may have been intended as an indication of a readiness to resort to violence in order to attain the object they desired.

<sup>19</sup> *Ibid.*, II, 10; *Memoria of Willelmus, Prior of Winton*, at 11, B. 1, *Great Chronicle*, 1311 (Rolls Series), I, 256; the *devilled Chronicle* (*Annals Illustrati*), II, 129.



the foreign clergy was begun. Armed and masked men entered the barns of the Italian provinces, calmly proceeded to thresh the grain, and then given it away to the poor, destroyed it, or sold it at the best price obtainable. Livestock and other property were disposed of in the same way, houses were burned, and much damage was done. The protests of the pastor of one Roman ecclesiastic because of such treatment brought the sheriff of the region and his men to investigate, but they withdrew when the marauders showed what purported to be letters patent of the king forbidding any one to interfere with them. The pillage of one estate continued for two weeks, the raiders only departing when everything had been taken.<sup>12</sup>

It was not long before the anti-foreign movement began to assume serious proportions. The early acts of violence seem to have been the work of a small group of men under the leadership of Sir Robert Twenge, who sought to conceal his identity by calling himself William Wilson.<sup>13</sup> Yet Twenge could hardly have been involved in all the disturbances which took place in many widely separated parts of England in the early months of 1831, and even in the early attacks he appears to have been but the agent of more influential men whose plan was nothing less than the expulsion of the foreign clergy from England.<sup>14</sup>

The campaign of confiscation seems to have been carried out more and more extensively, until all Italian ecclesiastical households in England began to fear the loss of their property. So violent did anti-foreign sentiment become that even papal messengers were attacked, one being killed and another badly beaten, while the bulls they carried were torn and trampled.<sup>15</sup>

Incidents that several other Romans were also taken and held based after the fashion of several months. One of those who engaged was John of Palermo, confessor of Birmingham, who had been especially active in the filling of petition numbers for the pope, and some of his supporters he recruited in Kilgus London for many days.

<sup>12</sup> *Biography of Woodhouse*, II, 28.

<sup>13</sup> *Biography of Woodhouse* declares the message that Twenge let in hand of his men (II, 27), while in another passage he states that he was accompanied by only five armed servants (II, 28).

<sup>14</sup> *Journal of Woodhouse*, II, 146; *Monthly Paris, British Archives*, ed. Frederic Madden (London, 1889-91, 2 vols.), II, 287.

<sup>15</sup> *English Dispatches 1831*, no. 565; E. Rieu and E. Sanderson, *Papal, Contemporary Affairs*, ed. A. Chateaufort (London, 1834-35), I, 300; *Journal of Woodhouse*, II,

Italians resident in England feared for their lives, and the more notorious pamphleteers and paid agents, such as John Boscawen of York, went into hiding to avoid the wrath of the rioters.<sup>12</sup> Few even seem to have dared to make protests, preferring to lose their property rather than to incur the risk of being slain. The programme of confiscation was apparently carried out against other foreigners besides Italians,<sup>13</sup> and even the property of Englishmen was taken in the general confusion.<sup>14</sup>

Little appears to have been done in England to put an end to the state of lawlessness which was fast developing. A council of bishops, to be sure, was held in London during February, 1538, to consider the situation, but even though it decreed the excommunication of those engaged in the outrages the campaign against foreigners seems to have continued unabated.<sup>15</sup> King Henry disclaimed responsibility for these acts of violence when they were brought to his attention,<sup>16</sup> and in fact proceeded to take immediate action by issuing orders to the sheriff of Kent to prevent any repetition of the attacks, and to arrest those who had been implicated in them.<sup>17</sup> Yet even this royal mandate had no appreciable effect, either because of the relief support given to the rioters by many of Henry's councillors,<sup>18</sup> or perhaps because the king himself became undecided as to the proper course of action when he discovered the extensive character of the anti-foreign movement. There was so much public sentiment in favour of the rioters that if the king and the English clergy were sincerely desirous of ending the attacks their task was bound to be a difficult one.

It was some time, apparently, before this situation came to the

122-123 (2, 125). Robert Grosseteste reports the manner that several Roman/English bishops Robert Grosseteste, *Epistolae quondam Grossetestani*, *Epistolae* ed. H. R. Luard (Oxford, 1936), Book Second, no. 2.

<sup>13</sup> Gregory IX, when complaining these outrages, declared that members of the English clergy had been targeted, taken captive, and forced to renounce Grosseteste by the rioters: *Decretum Marescalci*, I, 382.

<sup>14</sup> *Close Rolls*, 1538-1539, p. 152.

<sup>15</sup> *Decretum Marescalci*, II, 323.

<sup>16</sup> *Reges of Wintonia*, II, 19, Matthew Paris, *Hist. Ang.*, I, 328.

<sup>17</sup> *Matthew Paris, Hist. Ang.*, I, 328.

<sup>18</sup> *Close Rolls*, 1538-1539, p. 152.

<sup>19</sup> *Matthew Paris, Hist. Ang.*, I, 328. Without the English war and of Kent where the first attacks on the property of foreigners had occurred.

attention of the pope, King Henry and the English clergy evidently having failed to inform him of the serious nature of the attacks upon foreigners. Yet when reports of these outrages finally reached Rome they aroused keen resentment,<sup>10</sup> and early in June, 1255, Gregory himself wrote to both Henry III and the highest English clergy, rebuking them for their attitude in the matter and insisting that definite action be taken.

The letter to Henry III shows that Gregory felt the king was in large measure to blame for the insult to and the outrages. In it the pope reproached Henry for the lack of gratitude he was displaying for the benefits which had been conferred upon him by the Curia, and for the wickedness with which he and his kingdom had been protected from enemies both at home and abroad. The murder of a papal messenger had been perpetrated by Henry's partisans, and even with his connivance according to rumour, while the king had at least been guilty of negligence in doing nothing to prevent the attacks made upon the persons and property of foreign ecclesiastics domiciled in England. Henry must punish these criminals at once that their fate might serve as a deterrent to others, and he must compel them to make immediate restitution for the goods they had seized. Otherwise, declared Gregory, the Roman Church would be obliged to take action against the king in spite of the friendship it felt for him. Yet if Henry should act as the pope desired he might expect further favours.<sup>11</sup>

Gregory's indictment of the English clergy was quite as sweeping. In spite of the favours conferred upon them and the safeguarding of their rights by the Curia they had permitted outrages to take place which would be condemned even in heathen lands. Why had they not excommunicated the offenders as they were bound to do by their oath of office, and why had they not come to the assistance of those who had been in-

<sup>10</sup> Chronicle of that first council of Lincoln, postscripta up to Rome as described by some of the English clergy who found that to make such injury at the hands of their doctors of wronging the foreigners who had suffered in the matter. *Chronicon Anglicanum*, no. 2.

<sup>11</sup> *Epistolae Gregorii III*, no. 225. Brown, *Papacy*, I, 225. *History of England* (H), IV, and *Medieval Europe* (M), chap. II, both indicate that Henry was rebuked by the pope as taking action under penalty of interdict and excommunication.

forced as their Christian duty required them to do? Or if they were deterred from such action by fear, because of the multitude of those implicated in the outrages, why at least had they not professed regret for what had occurred? Gregory urged them to have no fear of the organisation responsible for the anti-foreign movement, since it did not even dare to announce the names of its members, and he declared that the charges raised by this organisation against the Cleric were entirely unjustified. English ecclesiastics should also not be deterred from action by a feeling that their own rights had been infringed by Rome since this could be proven to be without foundation. Gregory declared that those guilty of causing the disturbances against foreigners were known and would be punished, and any members of the clergy who had aided them would lose their benefices. He therefore directed the English clergy to win the guilty back to obedience by arguments and warnings if possible, but if they remained obstinate to excommunicate them on every Sunday and Feast Day until they should be willing to go to Rome to be absolved of their crimes. To compel them to do this the secular arm should be called upon, their benefices should be taken away, and any other method considered desirable should be employed.<sup>16</sup>

In addition to this general admonition to the English clergy Gregory appointed special commissioners to see that his commands were carried out, one for the south of England and another for the north. These commissioners were to conduct a careful investigation of the outrages, to issue a general sentence of excommunication against those implicated in them, and to send those found guilty to Rome without permitting them to make an appeal.<sup>17</sup> The investigation commanded was soon under way,<sup>18</sup> the general sentence of excommunication was issued,<sup>19</sup> and the names of those implicated in the attacks seem to have been sent to Rome.

The papal commands were also obeyed by the king, and in fact Henry III. seems to have taken active steps to end the disturb-

<sup>16</sup> *Regesta Gregorii XI.*, no. 595; *Annals Monast.*, I, 337-338.

<sup>17</sup> *Reges of Western II.*, 35; *Statutes Paris*, 334-335, II, 335.

<sup>18</sup> *Patent Rolls*, 1267-1268, p. 285.

<sup>19</sup> *Statutes Paris*, *Annals Regis*, ed. R. B. Lloyd London, 1871-83, Rolls Series, vi, 76.

action against foreigners even before the receipt of the letter from Gregory asking him for his sanction in the matter. On 8 May, 1584, he ordered all the sheriffs, under pain of his displeasure, to have inquiries made in their respective counties, summoning respectable men to give testimony under oath, in order to discover those guilty of the outrages of which complaint had been made. Any found to have been implicated either in the attacks upon foreigners or in the confiscation of their property were to be kept in safe custody or required to provide adequate guarantees that they would appear before the king when summoned. To guard against fraud Henry directed each sheriff to send him the proceedings of the inquiry after it had been made.<sup>22</sup>

This action of Henry was probably taken upon his own initiative, for he seems from the beginning to have been opposed to the campaign against the foreign clergy.<sup>23</sup> Even if he had received no earlier protest from Gregory than that of June, 1584, Henry well knew that the maintenance of the attacks would arouse the displeasure of the pope, and he would undoubtedly prefer to run the danger of offending those Englishmen who sympathized with the doctors rather than to risk a breach with the Curia.<sup>24</sup> It is uncertain whether Henry's commands to the sheriffs were acted upon at once, or whether the papal protest in June was needed to obtain action, but certainly by the middle of the summer an investigation of the outrages was well under way by the king's agents.<sup>25</sup>

The result of the investigations conducted by royal officials and the papal representatives disclosed a state of affairs which made any wholesale punishment of the offenders appear inadvisable. Those found to be involved were so many and so powerful that an attempt to punish all of them might well have caused

<sup>22</sup> *Chron. Rols.*, 1583-1584, pp. 189-191.

<sup>23</sup> Cf. also p. 188. On 26 April Henry had granted the request of Henry that his ambassador be reinstated for the losses he had suffered as the result of the seizure and trial of the guilty would be punished. *Chron. Rols.*, 1583-1584, p. 181.

<sup>24</sup> The issue of the papal letter of 1 June would seem to indicate that Gregory had urged Henry to pursue compensation on the subject of attacks upon foreigners, and this impression is strengthened by the content of the letter given by Matthew Paris (*West. Ang.*, II, 186).

<sup>25</sup> Henry himself indicated that the investigation was being carried out as the result of a papal mandate. *Id. Rols.*, 1583-1584, p. 190.

another civil war, the result of which would have been doubtful. Not only were many of the clergy found to be implicated, but also a large number of knights, and even a considerable proportion of the royal officials. So bitter a hostility for the foreign clergy was disclosed that Henry might well hesitate before seeking to punish those who had sought to drive them from England.<sup>72</sup> Furthermore the attacks on foreigners had ceased by this time, perhaps as a result of the activity displayed by the king, and harsh measures would surely have aroused fresh resentment. It seemed best to ignore what had occurred as far as possible.

The attitude taken toward Robert Twenge, who might well have been executed for the part he played in the disturbances, is indicative of this policy. He was granted a safe-conduct by the king that he might come and explain his actions, and when he had stated his grievances against the foreign clergy Henry, instead of punishing him, directed him to go to Rome to plead his case and be absolved from the sentence of excommunication under which he had fallen. Henry even gave him letters to the pope directing that he be given a hearing.<sup>73</sup> Similar safe-conducts were also granted by the king to others, whether laymen or clerics, who had been called or who might be called before the papal representatives conducting the inquiry into the outrages, and with them too Henry appears to have dealt leniently.<sup>74</sup> Those who had purchased grain or other articles from the rioters were, in at least some cases, required to reimburse the foreigners from whom they had been taken, but no other penalty seems to have been imposed.<sup>75</sup>

The royal officials implicated in the disturbances were not, however, treated with the same leniency. A number of sheriffs and their assistants were arrested and thrown into prison, others only escaping by flight, and some officials were ejected from the royal council.<sup>76</sup> The chief victim was Robert de Burgh, the king

<sup>72</sup> *Reges of England*, II, 40; Matthew Paris, *Hist. Ang.*, II, 440.

<sup>73</sup> *Ord. Pri. Rolls*, 1219-1227, p. 165; *Reges of England*, II, 40-41.

<sup>74</sup> *Patent Rolls*, 1219-1225, p. 105.

<sup>75</sup> *Close Rolls*, 1219-1225, p. 112.

<sup>76</sup> *Ibid.*, pp. 10, 11, 102, 104; *Patent Rolls*, 1219-1225, p. 405; *Annals of Monks*, I, 105, II, 105. As instance of leniency, Hugh de Cheselton, who still is prison in February, 1220.

declaring that investigations had shown that he was the one primarily responsible for the outrages. It was charged that he was the author of the forged royal letters which had been shown by the robbers in justification of their acts, and that he had made no effort to stop the outrages or to accept advice in the matter, although his office of justice placed upon him the responsibility of maintaining order.<sup>17</sup> On 22 July, 1291, Hubert was removed from his office of justice, and later arrested and imprisoned in spite of his efforts to escape. His trial was ordered by the King, and the royal officials named as custodians of his property were directed to reimburse from it those noblemen who had suffered losses as a result of the disturbances.<sup>18</sup>

The pope seems to have shown even greater leniency than the king in his treatment of those found to have been implicated in the attacks. The investigations by his own representatives and the representations of the king must have convinced him that the grievances of the nobles were too well founded, and those involved too numerous and powerful, to make drastic action advisable, particularly since the disturbances had ceased and since those who had suffered losses were being reimbursed. Roger, bishop of London, and others who were accused of having conspired at the outrages were obliged to go to Rome to plead their cases, but there is no evidence that any were severely punished.<sup>19</sup> Even Sir Robert Twenge, in spite of the violence of which he had been guilty, eventually received back the patronage of his church,<sup>20</sup> and Gregory not only failed to punish the arch-bishop, Hubert de Burgh, but actually urged King Henry on several occasions to free him from prison.<sup>21</sup>

Gregory also sought to make provisions less objectionable in England by acting against some of the more flagrant abuses

<sup>17</sup> *Ord. Dom. Adu.*, 1290-1291, p. 40; *Reges of England*, II, 45, 46; *Matthew Paris, Hist. Ang.*, II, 361. The *Chronicle of Fountains Abbey* (*Monast.*, II, 129) states that the letters seized shown by the robbers had already been issued by Hubert, 22; *English Monast. Paris* (*Chr. Ang.*, II, 129) declares they were counterfeited. *Matthew Paris* further indicates that the charges against Hubert were not well founded, but were inspired primarily by Henry's hatred to his friend from Hubert's influence (*ibid.*, II, 36).

<sup>18</sup> *Chr. Adu.*, 1291-1292, p. 188.

<sup>19</sup> *Reges of England*, II, 45; *Matthew Paris, Hist. Ang.*, II, 361.

<sup>20</sup> *Matthew Paris, Chr. Ang.*, II, 129-130.

<sup>21</sup> *Reg.*, vi, 70; *Anglica Monast.*, I, 40; *Regium Conspectu*, II, nos. 1291, 1292, 1293.

connected with them. Hence in July, 1152, he promised that papal agents, who had been empowered to provide English or foreign ecclesiastics with benefices, were not to suspend members of the English clergy from their right to bestow livings without a special authorisation from the pope, and he expressed indignation that such abuses had occurred. Furthermore he decreed that no benefice of which a layman was patron might be granted in future without the latter's consent.<sup>14</sup> Gregory also sought to limit the holdings of some of the more notorious pluralists, whose rapacity had been particularly objected to by Englishmen, one of them, Radfines, being directed to content himself with benefices which would amount him of a revenue of 100 marks, and to turn back the other livings he held to their patrons.<sup>15</sup>

Yet except for the concession made to secular patrons the reforms ordered by the papacy were very slight in character. Most of the foreign pluralists seem to have been allowed to retain their benefices undisturbed, and any concession made to the English clergy could always be nullified by the insertion of a non obstant clause in a provision mandate. Provisions continued to be made to foreigners as before, and they were to remain an ever present grievance for Englishmen. Another concerted attempt to rid England of foreign clergy was to be made in 1161 when the monks, Martin, was driven from the country and a violent protest was made to the Council of Lyons, but this effort likewise was unavailing.

While the anti-foreign movement of 1151-1152 failed to secure the result which it aimed, it is none the less of considerable significance in English history. The existence of an organized movement to end the alienation of English church revenues to foreigners, the readiness to resort to violence to attain this object, and the sympathy displayed for the cause by so many Englishmen, mark a crisis in the relations of England and Rome. Resentment at the policy adopted by the papacy in England must have developed to a high pitch when the anti-

<sup>14</sup> *Registre Walter Greg.*, p. 100; *Registre Gregoire IX.*, no. 273, *Ord. Pap.*, Reg. 2, 100.

<sup>15</sup> *Ibid.*, i, 124, 125. "Forageworded with this law by the pope inspired Radfines of all his other benefices *ibid.*, i, 125.



foreign movement could even extend to attacks on papal envoys and agents. It was evident that many Englishmen disliked the subordination of their church to Rome, and were desirous of excluding interference of the papacy in English ecclesiastical affairs to a minimum. It is also possible to see in this movement the beginnings of a spirit which might almost be called national in character. When members both of the clergy and the laity united to resist the pretensions of what was felt to be a foreign power they were beginning to act together as Englishmen. Of course the part played by the anti-foreign movement of 1530-1534 in the development of English nationalism should not be overestimated, and yet it had a significance for this development which ought not to be disregarded.

ERIN MACKENZIE



## HENRY V'S POLICY OF CONCILIATION IN NORMANDY, 1417-1422

Democracy in enemy territory was always difficult because of the hostility of the local population; they became doubly so when the invader's aims were such that he feels it necessary simultaneously to terrify, to conquer, and to conciliate the inhabitants of the region in which he is campaigning. It is a recognised principle of soldiering that the commander of an army occupying conquered territory will follow a policy of combined severity and conciliation. In this way he safeguards his own position while interfering as little as possible with the customary peaceful pursuits of the people. The maintenance of order is a primary consideration, in regard both to the soldiers of the conquering army and to possible local malcontents. When possible, the establishment or continuation of a non-military local administration capable of enforcing the laws is desirable. This is merely the application of common sense to the practical solution of very concrete problems. It is indicative of the military capacity of Henry that he apparently attempted consistently to apply these principles in Normandy during his conquest of that region.

To what extent, if any, he sought to appeal to the peculiar susceptibilities of the locality must be a matter of conjecture. A Norman scholar credits him with aiming to appear as a successor to the Plantagenet King-John, restorer of the duchy's autonomy.<sup>1</sup> Such a policy might seem calculated to appeal to the local pride of a province which had been resisting for half a century the extension of French royal authority.<sup>2</sup> Certainly

<sup>1</sup> H. Gougeon notes the revival of the national effort of resistance, directed by Philip Augustus: "Une nouvelle dévotion à, l'indépendance de Normandie en 1202," *Revue des Études de l'Université de Paris* (Paris, 1902). See also H. Fournier, *L'Empire des Normands et la colonisation anglaise en Normandie au XII<sup>e</sup> siècle* (Paris, 1905), p. 1.

<sup>2</sup> E. Coeurde, *Les ducs de Normandie, leur empire et leur développement au XII<sup>e</sup> siècle* (Paris, 1906), and *Les ducs de Normandie, un gouvernement des ducs de Charles V<sup>e</sup>, 1282-1286* (Paris, 1907). L. Morel, "Les perspectives valennes en Normandie à la fin du XII<sup>e</sup> siècle," *Revue des Études historiques* (November-December, 1904), pp. 222-236; J. Châtelier, *Revue politique d'après-commissaire* (Paris, 1899), II, 1.



early date the conciliatory policy which he was prepared to follow. But in addition to the memories of earlier English attacks<sup>1</sup> and the terrors normally attendant upon a foreign invasion, the Normans were apparently panic-stricken at the reported size and invincibility of the army of 1417, while their fears were increased by tales of the ruthless atrocities perpetrated by the English.<sup>2</sup> In consequence many fled into Brittany.<sup>3</sup> How to quiet these alarms and at the same time restore and maintain order was the problem which confronted the English King.

It would seem to be in September, 1417, immediately following the fall of Caen, that Henry formally declared his policy of conciliation.<sup>4</sup> His success so far had been striking. His opponents were impotent. It was the psychological moment to assume the role of the benevolent-conqueror coming into his own. With the advice of his council he seemed to be proclaimed that all those who returned to their homes and swore allegiance to him would be assured the royal favor, the enjoyment of their possessions, and the right to carry on business in the conquered country even if they were Frenchmen or foreigners. Commissioners to take allegiances and to issue *cartes de franchise* *de foy* were appointed, and, by emphasizing the contrast between the old and the new regime, a relaxation of the unpopular gabelle was accorded.<sup>5</sup> That the

<sup>1</sup> Gesta, *Robertus rex Anglorum*, pp. 176.

<sup>2</sup> *Chroniques*, v, 102, 103, 104, 105; *Three Lives, Five Deaths (Saint) Ralph Andros*, ed. H. H. Brown (Oxford, 1761), p. 24; *Chronique de l'An*, ed. M. de la Roche (Paris, 1888), *Notice de Philippe de Nemours*, p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20.

<sup>3</sup> *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), p. 20.

<sup>4</sup> Presumably this proclamation was given on 25 September, 1417, since on that date there occurred the submission of 200 Norman nobles and the submission to them of the royal pretensions. *Chronique*, pp. 102-103. *Chronique Bretonne* was completed the day before (1417), having commenced 1 September (1417), p. 101. A month earlier (25 August) the king had commissioned Talbot and Talbot's officers to capture the royal pretensions who submitted to the king and to the king's officers who submitted to them (1417, p. 101). *Chronique Bretonne* was the general policy, as it is worth an example of its nature (1417). Presumably the king, since it provides the example of the king, to the submission of Caen (25 August) the submission of the twenty-eight towns of the kingdom was submitted were taken into the royal pretensions with all their goods (1417, p. 101).

<sup>5</sup> *Chronique*, pp. 102, 103, 104, 105; *Three Lives, Five Deaths (Saint) Ralph Andros*, ed. H. H. Brown (Oxford, 1761), pp. 24, 25; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), pp. 20, 21; *Chronique Bretonne*, *Notice de l'An*, ed. Charles P. N. de la Roche (Paris, 1888), pp. 20, 21.

character and purpose of Henry's policy became widely known is indicated by the reports which reached Paris to the effect that the Normans were confounded at Henry's leniency and were disposed to sell his favor in order to live in peace. Members of the French garrisons in Normandy, seeking their ransoms after surrendering to the English, brought word that Henry, although haughty in manner and reputed to be vindictive, was none the less kindly, and although he was implacable towards the rebels, yet he treated the submissives with benevolence.<sup>17</sup>

The success, however, of a conciliatory policy must necessarily be proportionate to continued military success, since other strong forces were still able to resist despite the fall of Caen. Henry, consequently, made no effort at this time to discourage emigration. Those citizens of Caen who would not swear allegiance were free to depart under the terms of ransoms, although by implication their abandoned property, both real and personal, was subject to confiscation,<sup>18</sup> and some considerable number availed themselves of this grace.<sup>19</sup> At Bayeux, where there had been no resistance, permission was accorded to carry away movable property. Safe-conduct was provided for two hundred wagons, and fifteen days were granted to the inhabitants to effect the removal.<sup>20</sup> But to the citizens who came into Henry's allegiance the King guaranteed the maintenance of all the town privileges and franchises as well as the enjoyment of all their

<sup>17</sup> *Annales d'Orléans*, 1135, pp. 101-102. These passages indicate the relationship between these three actions. Reading the three together one gets the impression that Henry thought the original and that he made from the text of the royal proclamation. What the action in regard to the towns was in character and there is no other mention of such action at this time. What we note, however, that in June, 1135, the gabelle had been reassessed in the counties of N., 100% N., 100%, to 100% without mention perhaps that it was this increase which was dropped. At the end of December, 1135, the gabelle had been raised to 100% in the county of N. until 1 January, 1137 (ibid., no. 784, with copy in *Proclamation de l'Université* 100-101, 102, 103). Was the date incorrect in addition to this or merely a reversal after six months of the old rate? It hardly seems likely that these actions would involve any change in the value of offerings at this time to the performance about the gabelle of 1 May, 1135; cf. page 404, note 16. For various facts of some prior to the English invasion see Corbell, *Normandie*, no. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

<sup>18</sup> *Orderic Vitalis*, vi, 104.

<sup>19</sup> *Orderic*, p. 105.

<sup>20</sup> *Ibid.*, p. 106. A thousand persons received safe-conduct to withdraw to Flanders, but this included the garrison.

<sup>21</sup> *Orderic Vitalis*, vii, 104-105, no. 105.

marvelling and invulnerable property.<sup>17</sup> To speed up the process of pacification, captains sent out on minor expeditions were commissioned to recruit all who wished into the King's allegiance and to extend to them the royal protection.<sup>18</sup>

Quite apart from the sentiments of loyalty, which cannot be ignored, the dilemma confronting the Normans as long as the issue of the campaign remained doubtful will be apparent. True ready submission to Henry would be regarded as treacherous when French rule was asserted. The extent and duration of English success, judging by the past, was not likely to be great or long. To accomplish his purpose, therefore, the English King must continue to demonstrate his overpowering power, while at the same time remaining patiently gracious to those Normans who sought to evade submission. At Angoulême, according to *Préface de Gagey*, who writes as a loyal follower of the Duke d'Alençon, the citizens had lived so happily under the Duke's just rule that they were unwilling to abide under any other lord. So, although assured their property, they preferred to withdraw into Angou and Maine with such belongings as they could carry,<sup>19</sup> and the English records show seventeen hundred persons departing under safe-conduct from Angoulême,<sup>20</sup> and over two thousand from Alençon, besides a general safe-conduct for all those outside the city departing with their goods in carts.<sup>21</sup> This would seem to indicate a considerable migration which, it has been assumed, alarmed Henry and led eventually to stern measures and to establishment of the right to emigrate.<sup>22</sup> It has similarly been assumed that the insertion in the terms for the surrender of Laigle of special articles, stipulating that all those

<sup>17</sup> 20 September, 1427 (*Harley*, p. 306). In the face of these assurances the town enjoyed its freedom until 1 June, 1436, when Henry VI withdrew from Salisbury, *ibid.* 323.

<sup>18</sup> *Harley*, pp. 322, 323, 325, 326.

<sup>19</sup> *Chronique de Préface de Gagey*, ed. R. Monnier (Paris, 1914), *Recueil de l'histoire de France*, p. 324.

<sup>20</sup> *Harley*, pp. 322-226.

<sup>21</sup> *ibid.*, pp. 327-328.

<sup>22</sup> *Palmer*, *op. cit.*, pp. 32-33. This author points out that the prohibition to leave and to take their possessions with them is recorded merely in the earlier capitulations, but it was a policy which certainly was continued in the *Commissio* and elsewhere until the fall of Châlonais. See terms for Châlonais, Bailleu, La Roche de Tilly-sur-Seine, Châtillon, Beaumont, Doully-Cléry, and Châlonais in *Harley*, pp. 322-323; Salisbury, *ibid.* 324, 325, 326, 327.

who had fled through fear of the English might return and resume possession of their movable wealth paying ransom, and an effort to discourage abduction.<sup>15</sup> But this does not seem probable when we observe that this law is an isolated item incidental to a minor expedition conducted by Fitzhugh and Neville and not by the King. Presumably it refers to a local situation.

It is to be noted, however, that beginning with October, 1117, details for effective pacification begin to appear in conjunction with the policy of conciliation. Fitzhugh and Neville, who were operating along the Norman borders towards Verneuil, were given full power to receive towns, castles, and individuals into the royal allegiance and to maintain legal men in the possession of their property, but they were to make exact report to the King of what they had done.<sup>16</sup> Records of those who took the oath were evidently being kept. At about the same time Talbot, an captain-general of the marchers, proclaimed that all persons under the royal protection were to apply for and receive letters of allegiance within eight days. Anyone after that time who lacked such a letter could be captured and held for ransom.<sup>17</sup> It cannot be overlooked that both of these commands were in the frontier regions where the difficulties of war conditions would be most marked. It also seems probable that these regulations must be associated with Henry's policy of discipline in his own army. The army ordinance which we have use of 1128 or so we cannot apply their details to this campaign, but we know that his men were ordered not to take provisions from Normans who had taken the oath, without making satisfactory payment. We also know that during this period the army pay was in arrears.<sup>18</sup> Desertion had already called for administrative action.<sup>19</sup> For

<sup>15</sup> *Polson*, p. 52, *Shirley*, p. 202.

<sup>16</sup> 10 October, 1117 (*Shirley*, no. 227).

<sup>17</sup> Talbot was appointed, 1 October, 1117 (*Shirley*, p. 270). This proclamation is dated 20 October (*ibid.*, p. 222-223; p. 227).

<sup>18</sup> *Rolls of Henry and Matilda*, 1118-21, *Collier*, *The Foreign of England*, 1118-21 (*London*, 1906), vii, 128.

<sup>19</sup> 10 September, 1117, *Chart to the church* (*Shirley*, p. 222). The commander of King's life militia was seriously stipulated in the terms for surrendering towns and castles, but it is scarcely that there was a considerable conventional formula rather than an intention that there were large numbers of recruits. The word *parvitas* is the translation of *palatium* that all men, not of *palatium*, who have fought Henry in one other place in Normandy, were to leave his army, presumably applied more generally to French mercenaries rather than to Normans. *Shirley*, no. 224.



the individual soldier was was a form of mercenary adventure in which loot and ransom probably more than paid provided the profit. He had to provide his own supplies either by purchase or capture. A too rigid discipline in the interests of the Norman populace would make for discontent in the army and immediate desertion, while encouraging the Normans to evade formal obligations as unnecessary. The reluctance requiring letters of obligation would serve to bring pressure on every Norman to take the oath, and would enable the English soldiery to profit at the expense of the King's real enemies.<sup>12</sup> It also meant that those who took the oath and then joined the enemy could be treated with a severity which might discourage similar action on the part of others, and it is to be observed that royal commissions in November and December, 1417, include authority to take and punish rebels.<sup>13</sup> Commissioners were appointed in December to punish brigands.<sup>14</sup> It has usually been assumed that these rebels and brigands were Norman patriots assisting the invader to the death. In this connection, however, it should be remembered that the French government had been vainly struggling to suppress brigandage prior to Henry's invasion,<sup>15</sup> so that these measures would be ones taken in the interests of local order and efficient government as well as being war measures against patriotic guerrillas. That a general condition of local disorder and brigandage existed apart from the activities of loyalists is apparent in the commission issued in January, 1418, to the Burgundian leaders north of the Seine half a year before Henry invaded that region, in which they were specially empowered "de prendre, emprisonner et chasser, et faire valloir leurs deniers des pais loiaus nos ennemis adversaires, rebelles, gens de compagnie,

<sup>12</sup> There would always be difficulties from the effect of the oath-attempts to recognize the validity of the letters of obligation. The royal letter of 11 January 1417, on this subject (*P. Suppl. (Bodley)*, p. 309). Complaints on this score persisted.

<sup>13</sup> 14 November, 1417 (*ibid.*, p. 310); 27 December, 1417 (*ibid.*, p. 312).

<sup>14</sup> *Ibid.*, p. 312. On 26 January, 1418, the English captured Tournai, a town north-west of Liège, and collected to bring all brigands in their custody or jurisdiction (*ibid.*, p. 313).

<sup>15</sup> *Revue de France*, vi, 38-39; *Journal des Vaincus*, no. 224, 225; *Bibl. Mss.*, *ibid.* Ch. 222, 223, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

pillages, robours et autres gens mallicieux."<sup>10</sup> Nor can Henry's measures be dissociated from the problem of desertion when we find allusion at a later date to rapacious soldiers swamping the country and subject to no authority,<sup>11</sup> and directions to the commissioners to punish brigands according to the army regulations as well as the laws of Normandy.<sup>12</sup>

With the fall of Falaise in February, 1418, English military success and prestige warranted increased effort to induce mercenaries and adventurers to submit to the occupation, effort backed up with coercion. Proclamation was ordered 4 February to the effect that all those who wished to submit should apply for safe-conducts to come to the English King and swear allegiance.<sup>13</sup> This was followed a fortnight later with another proclamation that all those who had submitted and come into Henry's obedience should betake themselves to their homes before the end of the month, on pain of being treated as brigands and enemies. Under this device local inquiries were to be held to discover what persons were not at home on the last day of February, and their names given to the English authorities.<sup>14</sup> Since these proclamations were issued through the vicinatal administration they would, at this time, reach a somewhat limited area;<sup>15</sup> it was necessary, therefore, to supplement them by other action in the other sections. Gloucester and Warrington, who were subduing the Cotentin, and Cheriton, who was acting for the King on the frontier of Ango toward Rouen, were ordered, on 21 March, 1418, to proclaim that all brigands or other adventurers in hiding who would appear before the King before 8 April to take the oath would be pardoned and assured the possession of their property.<sup>16</sup> At the same time Warwick, who was operating against Daumont in a frontier region troubled by garrillas and robbers, was authorized to receive allegiances and guarantee

<sup>10</sup> *Rolls*, *passim*, 100.

<sup>11</sup> *Reliquary*, nos. 304, 308; *Calendar of the Documents Relating to the History of the English Empire of the French Minority*, 102, 103.

<sup>12</sup> *Cal. Docs. Rolls*, *op. cit.*, 61, 702.

<sup>13</sup> *Rolls*, p. 101.

<sup>14</sup> *Rolls*, p. 102. 2 February, 1418, order to the vicinats of Caen 251, 252 to 2522, 25 2523.

<sup>15</sup> They were issued in the vicinats of Bayeux, Caen, Falaise, Argentan, Alençon, Mortain, Evreux, Bernay, Ang. Orbec and Condé-sur-Noireau (*Rolls*, p. 102).

<sup>16</sup> *Rolls*, p. 101. *Cal. Docs. Rolls*, *op. cit.*, 61, 702.

possessions apparently without recourse to the King.<sup>17</sup> Similar full powers to admit all who wished to come into Henry's obedience were extended to Clarence on 4 April with authority to ensure the retention of all feudal rights and possessions within the counties of Ango, Orlean, and Fontennoy and in the regions toward Paris, provided the King had not previously granted them to someone else.<sup>18</sup> This was followed, a week later (21 April), by the proclamation of a general safe-conduct under the great seal. In this the King, asserting his desire to release his people from the calamities of war, decreed that all who enjoyed a yearly income of 40 l. s. should enjoy their property on condition of returning to their homes with their families and swearing fealty by the first of June. Exceptions were made of those who had houses and property in Caen, and those who were then defending Cherbourg, Domfront, Bar-Bellouin, and Neufly-Fortyque against the English. Further exception was made in regard to the lands and property which the King had already granted to other holders, while houses and lands at Falaise were reserved in the King's hands. Persons availing themselves of this opportunity must take the oath of allegiance within eight days of their return, at which time they would receive their ballots on payment of only 20 s. s. Special assurances were given that Normans who had been captured and held for ransom but had escaped from their captors and fled the country might return without loss of reputation. Gentlemen, however, who had given their parole in similar circumstances were not to be released from their obligations by swearing allegiance. They were guaranteed against arrest but their raptors could bring action against them under the law of arms before the King's justice. Special assurances were given the clergy to the effect that those who would be loyal could return to possess their houses and property, and to enjoy their benefices and revenues.<sup>19</sup> To facilitate submission, and probably to correct abuses which were arising, special orders were issued 18 April, 1418, directing the King

<sup>17</sup> 20 March, 1418. *Bellegames*, no. 1307. Beaumont, Chartres, and Bourges had authority to receive allegiance (*ibid.*, pp. 322, 323, 324).

<sup>18</sup> *Bellegames*, no. 31.

<sup>19</sup> *T. Rymer, Foedera*, etc., 4th ed. [The Roper, 1739-65], 5, 2, p. 25.

Rich captives not to capture Normans coming under safe-conduct to the King to swear fealty within the time specified in their safe-conducts, and ordering them to proclaim that no Englishman was to molest the King's Norman subjects. The diffusion of the situation will be obvious from these orders. Still further to avoid friction between the men-at-arms and the Normans, Gloucester and the bulk of the Cotentin were authorized to issue *habettes* under their own seals and send them to those who swore fealty, keeping a record of the names. Before the end of the month similar powers were extended to the bulk of Caen and Alençon, and in the following month the President of the Norman Exchequer received like authority.<sup>21</sup> This would eliminate much irritating local by-arrangement between Normans and would accelerate the process of pacification. The new English administration was apparently prepared to follow up these measures with land inquiries regarding shroveten, and to make some effort to spread officially the information which was obtained.<sup>22</sup> It was equally ready when the question of allegiance was raised in individual cases to hold inquest and to give official certification in favor of faithful Normans.<sup>23</sup> Obviously, however, many of those who swore allegiance would have to come to the King to do homage. Either to facilitate this or to relieve Henry, engaged with the siege of Breton, the Earl of March as royal lieutenant in Caen and the Cotentin received full power to receive the homage of those who had sworn allegiance, and to render them in their property, and the Norman Exchequer was directed to issue letters patent according to the Earl's arrangements. But such homage must be reported before the King at the next Easter.<sup>24</sup>

It will be apparent from allusions and provisions in these documents of April, 1148, that Henry was beginning to apply pressure upon recalcitrant Normans by threats of confiscation. Presumably in this connection, also, the desirability of making the war

<sup>21</sup> *Old. Woss. Bolls* op. cit., II, 491, 500-501.

<sup>22</sup> The letter of 28 August, 1148, addressed by the "patre de nos des obligeances" at Gloucester to Chichester would not merely informing them that the bulk of Henry's liege knights have been seized from Normandy and "now obligeances are King" since before Easter 1148, II, 491-492, no. 1000.

<sup>23</sup> Chichester, 1148; certificate of witness of Euphrasie Bell. Mon., 144, Ch. 78.

<sup>24</sup> 10 November, 1148; *Reliquiae*, nos. 106, 107.

profitable to his loyal followers entered in, because it must be remembered that the military effort which the English were making was more continuous, and therefore more burdensome to the individual captain, than any they had known before. Prior to the fall of Falaise, however, the granting of fiefs constituted from rebel Normans had been limited. Only fourteen grants were made, and one of those to a loyal Norman, at the expense of ten rebellious abbeys.<sup>17</sup> But between the fall of Falaise and 1 June, 1145, the date for submitting under the proclamation of 29 April, some eighty-two grants of fief were made to fifty-six Englishmen and three Normans at the expense of sixty-eight rebels and eleven dead men. This would suffice, no doubt, as an example to the Normans and a promise for the English, until the campaign against Rouen was finished, as there is a marked statement in making grants during the last half of 1145 (i.e. before the fall of Rouen). Only twenty-eight fiefs are granted to nine Englishmen and eleven Normans during this period. It is perhaps worthy of note that, aside from a dozen of the most notable English leaders, most of these fiefs (two-thirds to three-fourths) were granted to men who were not even captains of companies in the original army.<sup>18</sup> From this we may infer a policy seeking to create in Normandy an English party nobility and gentry which would be chiefly interested in the duchy.

No exceptions were made in regard to abbeys and churchmen. The vice-general for the Bishop of Coutances was expressly forbidden to send any of the diocesan revenues to his lord until further orders,<sup>19</sup> while not even direct request from the Pope himself could persuade Henry to allow the abbeys Bishop of Bayeux to enjoy the income from his see.<sup>20</sup> Lesser clergy who failed to swear fealty were subject to similar pressure.<sup>21</sup>

Increased severity may also be noted in the terms imposed

<sup>17</sup> The entire list was at the expense of the Bishops of Exeter, the Count and Countess of Flanders, and a dead man.

<sup>18</sup> See *Barons and Bishops*, passim, and compare with Table of Captives in Harvard University Library. See *Barons*, appendix VII.

<sup>19</sup> 12 April, 1145: *Cal. From. Rolls*, pp. 216, 217, 220.

<sup>20</sup> *Barons*, ix, B, pp. 22 and 23; *Cal. From. Rolls*, pp. 217, 218, 222; *Gallia Christiana*, 21, 222-223.

<sup>21</sup> 1 May, 1145: *Cal. From. Rolls*, pp. 217, 218, 222.

upon Evreux, 20 May, 1418, by the Duke of Barre, although apparently there was no resistance. There was no provision for departing from the city even for the fighting men. All were to take the oath of allegiance or be held for ransom, while all rebels or ringleaders who had taken the oath before and then broken it were to be at the King's mercy. The goods of rebels and abettors were to be surrendered, but the citizens, on taking the oath, were to be unharmed in their residences and were assured their property if it had not already been disposed of by the King. Nevertheless, for having waged rebellions war they were bound to seek pardon from the Duke and to provide eighty bushels of wine for the English soldiers. In return, the Duke promised to use his influence to persuade the King to guarantee to Evreux such privileges as he had conceded to other Norman towns.<sup>10</sup>

Apparently Henry was acting towards towns as towards individuals, guaranteeing to those that submitted the franchises which they had had on the date of his landing. On 22 March, 1418, he had guaranteed to Falaise Reformist liberties, reserving to himself land outside the walls for digging ponds to improve the defences, and to determine those liberties he ordered an inquest.<sup>11</sup> On 15 April, 1418, the royal agents made report to the King's council, setting forth the privileges with documentary proof and the statements of witnesses.<sup>12</sup> Similarly the English King was prepared to permit the towns to levy the customary aids, the local tariffs on beverages for maintaining the local fortifications. The earliest of these, and indeed the only one before the fall of Rouen, is of 20 May, 1418, issued in favour of Vire, on the ground that it had been the custom previously and that Henry revised it at the request of the citizens.<sup>13</sup> But in order to

<sup>10</sup> *Bellogny*, no. 141. In this early development of policy which the dissemination of a certain code came from England and therefore likely to be endorsement of a "soft" policy towards the enemy? One suspects that the English army and its supplies may not have departed even the loyal Normans as fellow-subjects. Two days after the surrender Henry issued letters patent granting their goods and residence to the clergy and inhabitants of Evreux: *Ibid.*, 142a, 141b, 141c, 79.

<sup>11</sup> P. Godeau, *Statistique de Normandie et Falaise (Falaise, 1380-1418)*, p. 22.

<sup>12</sup> *Bellogny*, no. 142.

<sup>13</sup> *Ibid.*, no. 143. For a list of the other "aids" see R. A. Nicholls, *The English Conquest of Normandy* (New Haven, 1902), p. 173, note 22.

appear in an even more attractive side the conquest. In addition to confirming the status quo ante, aimed also to offer an improvement on the French rule by a reduction of the gabelle. 4 May, 1448, he decreed that in the regions he had reconquered, for all his subjects who had sworn allegiance or who would do so by the end of the month, the salt-tax was reduced from fifty per cent and ransom to twenty-five per cent, and the rule requiring the purchase of a certain quantity of salt was abolished.<sup>14</sup>

It was the success of the campaign which opened in June between Loudiers which would determine the extent to which the English policy was to be successful. We have already noted the increased severity imposed upon Rouen. This was carried further at Loudiers after a siege of two weeks, when the payment of an indemnity of 8000 roubles was made the precondition for resistance,<sup>15</sup> although the King was as ever willing and prompt to give assistance to all in the town who were prepared to submit.<sup>16</sup> It culminated in the crushing terms imposed on Rouen after its long resistance.<sup>17</sup> Henry was also prompt to encourage submission by quick action against the rebellious, beheading at Loudiers those guilty of conspiring to submit the Breagandians from Yveron, and taking similar action later at Rouen and Dieppe.<sup>18</sup>

Efforts to maintain order throughout the country, to suppress brigandage, prevent desertion, and restrain the looting of the soldiers became more evident during the year 1448. A special force to deal with brigands was formed in April,<sup>19</sup> and a series of orders were issued to such persons as the baille of Alençon and the Cotenais, and the commanders at Harfleur, Pont-de-l'Écluse, Pontoise, and Arras-sur-Orne to search out soldiers and to hold them in prison until further orders. This last, by implication, indicates the clash between the royal interest in local peace and

<sup>14</sup> *Henry*, op. cit. iv, 8, p. 48.

<sup>15</sup> *Henry*, op. cit. 104. The positive measures at Pontoise were directed only against the garrison of the castle and not against the citizens.

<sup>16</sup> *Ibid.*, iv, 104.

<sup>17</sup> *Henry*, op. cit. iv, 8, p. 48.

<sup>18</sup> R. Le Carpentier, *Annales de la Normandie-Franche* (V. annuaire de Normandie pour la Normandie anglaise, 1448-1449) (Paris, 1894), *Annales de l'histoire de Normandie*, i, 11-12; also *Henry*, *ibid.* op. cit. vi, 178; *Henry*, op. cit. 104, 105; *Henry*, op. cit. p. 105; *Annales de l'histoire de France*, ed. Dupont (Paris, 1887), pp. 104-105.

<sup>19</sup> *Ibid.* *Henry*, *ibid.* op. cit. vi, 178.

the soldiers' interest in ransom.<sup>40</sup> A permanent commission was formed at Falaise to punish all brigands imprisoned there according to the laws of the duchy and the army regulations.<sup>41</sup> By royal order the nobles were to proclaim that all who had suffered at the hands of the English soldiers could get redress at the vicomte's court.<sup>42</sup> But in describing the situation in the autumn of 1138 Henry had to admit that Normandy suffered from a "multitude of brigands and other enemies that were always busy to the destruction of the people that obey the King."<sup>43</sup> It was also a matter for discouragement that "no man of estate had come in to the King's shiremen and . . . right few gentlemen, the which is a thing that causes the people to be full unstable and is no wonder." The necessity of paying the soldiers regularly in order to prevent their pillaging the Normans was emphasized, and the impossibility of drawing on the duchy for war expenses, since under existing war conditions any such effort "were like to cause a general growching and so a dishonourance which God forbid."<sup>44</sup>

The fall of Rouen, followed by the rapid conquest of Upper Normandy, created a new situation. So far as the English position was concerned these events were decisive. The chances of a reversal of fortune likely to revolutionize conditions in the duchy became exceedingly remote. Henry, in consequence, could develop and apply his policies in respect to the Normans with more speed and decision than formerly. While continuing to invite and encourage submission he could feel free to act with vigor against intruders, both because he was more completely master of the local situation than formerly, and also because it could reasonably be assumed that those Normans who remained obstinate in the face of both English conciliation and English victory were irreconcilable. The machinery for taking allegiance was expanded by levying a much larger number of commissions for this purpose, not only to the commanders of regiments

<sup>40</sup> Col. Recs. Rolls, op. cit., vol. 10, pp. 778-779. H. de Henry, "Un rôle, le duché de la part d'Henri pendant l'invasion anglaise, de 1136 à 1141," *Bulletin de la commission d'histoire et d'archéologie de l'Orne*, vol. 120.

<sup>41</sup> Col. Recs. Rolls, op. cit., vol. 10, p. 782.

<sup>42</sup> *Itinerarium*, 1430-1431, p. 190.

<sup>43</sup> H. Nicholas, *Proceedings and Deliberations of the Privy Council of England* (London, 1892), p. 371.





offences, even though they were brigands or deserters, being assured royal protection.<sup>12</sup> Special proclamation, 26 February, 1449, urged all who were absent from Normandy to return to obedience within a month;<sup>13</sup> arrangements were made with the Duke of Brittany permitting refugees to return freely with their goods,<sup>14</sup> and the English authorities showed themselves ready to restore to those who returned their property, in whole or in part.<sup>15</sup>

At the same time measures were taken against the clericals. It was announced that all secular lands and ecclesiastical temporalities held by those who had not come into Henry's obedience would be taken over to be administered like the royal domain and the income paid into the chamber of accounts.<sup>16</sup> Special agents in the King's name took over at once the Estouteville estates and the holdings of the Count of Tancarville,<sup>17</sup> and after waiting a month orders were sent to the dechans of Lower Normandy to ascertain the names of all persons in their districts who had not done homage, together with the value and extent of their lands.<sup>18</sup> It is during these first five months of 1449, particularly in April and May, that Henry was most active in granting fiefs to Englishmen at the expense of Norman rebels. About two hundred grants of about two hundred and fifty fiefs appear in the rolls, and mark the peak in the distribution of confiscated property.<sup>19</sup> In connection with this revolution in property-holding the new administration was prepared to release the property of loyal subjects from payment of charges due to

<sup>12</sup> *Trouvaille au St-Pierre*, 1449: *Roll*, c. 751, 754, 755.

<sup>13</sup> *R.N.*, 1449, in 1894, no. 255.

<sup>14</sup> 26 March, 1449: *Brigage*, no. 1782.

<sup>15</sup> *Col. Mann. Rolls*, op. cit., c. 757-759, 760, c. 761, 762.

<sup>16</sup> 6 February, 1449: *Brigage*, no. 227.

<sup>17</sup> 26 January, 1449: *Roll*, no. 254; *Col. Mann. Rolls*, op. cit., c. 751.

<sup>18</sup> 26 March, 1449: *Roll*, p. 761.

<sup>19</sup> *Brigage* and *Trouvaille*, *passim*. There were about 250 more grants during the next year and a half. For Henry's regulations regarding his holding see *R.N.*, *Trouvaille de Normandie* 137-139, fol. 49v. This is a reference by Henry VI in order of his father's succession. The date of Henry VI's action does not appear. It might have been given in connection with certain orders of 29 May and 4 June, 1449: *Col. Mann. Rolls*, op. cit., c. 761, 762-763. The same document with various spellings and many abbreviations suggesting that it was taken from an abridgement, but first *Trouvaille* ending *Trouvaille* in a *Roll*, *Man.*, Add. Ch. 11422.

rebels," and to suspend all legal proceedings which antedated the English invasion.<sup>10</sup> The process of confiscation culminated in orders of 8 June, 1120, issued to all the Norman lords directing them to seize all lands of whatever sort for which letters patent from King Henry cannot be produced. Such letters under the great seal could then be handed either to the loyal Norman holder or to some other faithful layman.<sup>11</sup> A final appeal for submission comes at the end of September, after the fall of Caen had completed the conquest of Upper Normandy, with the proclamation of a general safe-conduct. All persons who wished to come into true subjection were given until November first to submit and to be released of their property, and the English soldiers were directed to do them no injury. The country men, *gens de plat pays*, who had taken the oath and then turned rebel were assured of safety in returning to their allegiance, but any gentlemen who had violated their oaths were excluded.<sup>12</sup>

It is at this time that special efforts were made to restrain the clergy. "It has come to our attention," wrote the Earl of March, "that many priests, chaplains and churchmen hold to the party hostile to the King in giving counsel, aid and comfort to brigands and others of the King's enemies, from which many and great inconveniences for the duchy of Normandy ensue that will become still worse." In consequence the bishop of Caen (and presumably the other bishops of Lower Normandy) was ordered to have cried abroad that all clergy who had not taken the oath of allegiance should appear before the bishop or his lieutenant within a fortnight to take the oath and to promise not to give aid and comfort to the King's enemies on pain of being reputed rebels and of being captured and punished accordingly.<sup>13</sup> This was followed up by orders to the ecclesiastical authorities in the Norman dioceses to prosecute in the ecclesiastical courts non-

<sup>10</sup> *Cal. Norm. Bolls.* op. cit. vol. 100, cols. 100, 101.

<sup>11</sup> *Ibid.*, col. 100.

<sup>12</sup> *Rotulus*, no. 299. For similar action by the French see *P.H.C.*, no. 111, and *Arch. Nat. X/174*, no. 91.

<sup>13</sup> 22 September, 1120; *Rotulus*, no. 299. Special action in the diocese of Bayeux and in other parts of the duchy from remaining loyal were issued on 8 October; *Cal. Norm. Bolls.* op. cit. col. 101.

<sup>14</sup> 22 February, 1120; *P.H.C.*, 103 ff. 105-6; no. 100; 1003. Proclamation was made at Falaise on 8 March.

resident clergy.<sup>17</sup> Eventually extension until the end of November was permitted to abbeys, apparently to accommodate the Norman students at the University of Paris.<sup>18</sup> Already Henry had assumed the administration of the archiepiscopal temporalities by reason of the disaffection of the Archbishop of Rouen and of his failure to do homage and swear fealty,<sup>19</sup> and in February 1140 the Treasurer-Clerical ordered the occupation and collection of the spiritualities and temporalities of the vacant absent prelates as though they were vacant.<sup>20</sup> At earlier dates the cathedral chapters had been ordered not to fill vacant benefices without royal license,<sup>21</sup> but, while this would help to secure a loyal clergy, presumably this was primarily intended to safeguard the royal rights of presentation, rights which could easily be used to reward the submission. Absentee canons, however, were deprived of the fruits of their benefices "for having joined the Dauphin in territory notoriously unsubmissive to the King."<sup>22</sup> If they returned and could show that they were not Armagnacs they were reinstated.<sup>23</sup>

The detailed account of Henry's appropriation or organization of a civilian local and central administration in the course of his conquest need not detain us. Suffice that such was his policy from the start,<sup>24</sup> and that following the fall of Rouen he undertook to apply himself to the local problems of the duchy in the interests of good government. At the end of February and the beginning of March he summoned the Norman nobility to appear in person before him at Rouen. "Upon intention of

<sup>17</sup> 22 April, 1140; *Pol. Norm. Rolls*, pp. 40, 41, 42, 103.

<sup>18</sup> 20 September, and 27 October, 1140; *ibid.*, pp. 104, 105.

<sup>19</sup> *Biographies*, nos. 1025. Not in 1139 we find a royal declaration of intention to exercise regalian rights against the archbishops; *Pol. Norm. Rolls*, pp. 35, 36, 102.

<sup>20</sup> *R.S.*, 102, in 1024b; nos. 1036, 1037.

<sup>21</sup> 22 January and 22 February, 1140; *Pol. Norm. Rolls*, pp. 36, 37, 102. 7 March, 1140, vacant prebendaries declared to be "in manifest vacante [sic] vacante" (*Biographies*, no. 1026). The rolls are full of presentations.

<sup>22</sup> L. Nelson, *Western politics in relation to English administration in the Middle Ages* (London, 1908-10), p. 140-160. It may be of interest to note that in the rolls in 1141, the French authorities had had similarly to resort to measures of repression against pro-English clergy. *Western politics in England* (Trenton, 1951-52), p. 140.

<sup>23</sup> *ibid.*, pp. 36, pp. 140 ff. For an excellent description of Henry's system in its completed form see W. T. de Wailly, "The Administration of Normandy, 1140-1143," in *Essays in Medieval History presented to Thomas Hodgkin* (Oxford, 1933), pp. 164-185.

relève de l'impôt à l'impôt non légal, subgès et seroyent only conuoyez, tolotes et sigifier personnellement certaines matieres concernans le bien, honneur et volste de nous et de chacun d'eux.<sup>10</sup> At this time he wore his robes as Duke of Normandy, and issued an edict appointing as a standard of liquid measure those in use at Arques and Evreux the oil according to the Paris oil.<sup>11</sup> Later in the year the English King was willing to reverse his earlier benevolent policy in regard to taxation, and undertook to collect from the duchy revenue for carrying on the war by appropriating the French war taxes of the gabelle, the quartages on beverages, and the imposition *Archie*. Whatever his previous arrangements about the gabelle may have been, it is obvious that the price fixed at this time, 38 livres the measure, is that which the French government had established in December, 1414, to run until 1 January, 1415.<sup>12</sup> He even undertook to reform the money, and initiated in May, 1415, a series of monetary edicts, presumably with a view to restoring a sound currency,<sup>13</sup> but apparently without satisfactory results. The systematic debasement and counterfeiting practised by the Dauphin as a war measure, the difficulty in collecting silver in return for the new coinage, and the tendency to hoard, export, and speculate in bullion which develops in a highly uncertain money market,<sup>14</sup> all combined to defeat a currency reform, which may not itself always have been based upon sound and far-sighted principles.<sup>15</sup> Certainly currency changes were

<sup>10</sup> *Chartes de l'Empire*, which I in Normandy" in Williams' edition of the chronicle's *Book of the Duke of Burgundy*, p. 191. The price is also given in this account as 38 livres, but the error of confusion seems to be caused by the word *Archie*.

<sup>11</sup> T. Mass, 1415, *Burgundy*, no. 100, at nos. 101 and 102. Presumably it is pointed out that previous to the victory at Agincourt when England, in order to meet the expenses of her campaign of conquest, increased the price for the French wine being bought again to the current price which France had previously established in the early part of the century (1 November, 1414, B.C., 141, at 101), see 101-102.

<sup>12</sup> Edicts of 1 May, 1415, *Burgundy*, no. 103. For subsequent ones in France, see 1415 April, June and August, 1415 January, April, May and November, 1415, no. 104, nos. 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121. This was highly technical subject, which calls for careful study by economic experts. For Halliwell's study in *Annales de l'Université de Paris* and elsewhere there given, reported in introduction in *Spalding's Manuscript Circular* for January-February, 1885.

<sup>13</sup> *Burgundy*, nos. 105, 106.

<sup>14</sup> Halliwell's doctrine some of the speculation may be explained only on the basis of administrative greed.

blamed locally for making hard times,<sup>10</sup> a fact which would not be conducive to the popularity of the new government, nor a help towards local order.

It was in regard to the latter that difficulties continued. As previously, as during 1436 orders and commissions to various officials, captains, knights, vassals, empowering them to punish brigands, suppress robberies, and eliminate oppressions,<sup>11</sup> with, on one occasion, orders to summon the knights and esquires to deal with a particularly bad state of affairs,<sup>12</sup> continued to indicate that disorders existed and that the English authorities were increasingly active to suppress them. It is, however, late in 1438 that we begin to find records of executions,<sup>13</sup> which may indicate either a more rigorous policy on the part of the government, or merely an effort of the local officials to give evidence by written record of the efficiency with which they performed the King's business. Of results we can say little, except that in June, 1440, the captain of Harfleur could report "that ye no staying of none evil doers, nor byende the streets of Bayne, toward the haue of Normandy of certayn brigandis"; and the bailli of the Cotentin could write in that "brigandis were never so free in this partye."<sup>14</sup>

The prevalence, however, of war conditions and hard times,<sup>15</sup> the presence of English garrisons throughout the country without much military activity to occupy them, the probably increasing numbers of deserters who found a livelihood in brigandage, the exposure of Normandy to raids from hostile

<sup>10</sup> *Ibid.*, *op. cit.* p. 286; R. Chastelain, *Chronique*, 1437-1438, ed. R. Kopp, *Les Collections Chastelain*, 1929-30, I, 108; *Chron.*, *op. cit.*, no. 102, 103-104.

<sup>11</sup> March-September, 1436; *Pol. Arme. Rell.*, *op. cit.*, cii, 102, 103; cii, 764; see also cii, 824, 825.

<sup>12</sup> May, 1438-1439, *ibid.*, 727.

<sup>13</sup> Between November, 1438, and May, 1439, the names of thirteen males and 128½ bagmen with twenty-and-a-half marks of silver were found, by informed witnesses "condemnez a mort ou a autre peine par les bailli de la haute justice"; *Chron.*, *op. cit.*, I, 102-103. See also R.S., MS. B. 10094, nos. 1086, 1073, 1061, 1058, 1055, 1051, B. 10094, no. 1050. These condemnations are connected with the policy of rewarding the capture of brigands, but the first reference to such reward is in September, 1437. Cf. *passim* 105, 104.

<sup>14</sup> R. Hill, *Original Letters Illustrative of English History*, 2nd series (London, 1840), I, 75, 80.

<sup>15</sup> *Journal d'un bourgeois de Paris*, 1414-1422, ed. A. Tuetey (Paris, 1881), p. 100; cf. *ibid.*, 1073-74.

territory, the damage to English prestige resulting from the disaster at Hough, all these combined to increase the difficulties in regard to local order.<sup>10</sup> The considerable number of royal pardons give glimpses of the local conditions, and would seem also to indicate a general desire of the English authorities to be lenient when circumstances warranted. For those who had been forced into crime by hard times, joining the brigands offered an escape. Loyal Normans captured and held for ransom might be released from payment on joining their French captors, or by agreeing to carry messages, or by furnishing brigands with supplies, or by sowing them across the Seine, all acts in violation of the royal edicts; and once forced to break the law and no longer liable to arrest, through fear such men would themselves join the outlaws. Refugees from Normandy who joined the French garrisons found the transition from the life of a frontier *maître-et-arms* to one of brigandage very easy, and attempts to return to peaceful life at home might well be regarded as mere subterfuges by the English or encounter hostility from neighbors who had suffered at the hands of the French soldiers. There is for instance the account of one brigand who decided to reform but who was promptly seized and hanged. His companion, who was not a brigand, sought refuge in a church, from which he was allowed to go free only on condition of pledging himself to effect the reform of his cousin then imprisoned for brigandage. The latter, however, on being released resumed his former life, whereupon his mentor himself fled to the woods.<sup>11</sup> The very presence of French raiders and guerrillas made for conditions encouraging individuals to fight, and the English authorities had to keep issuing pardons to men who had, in one way or another, been forced through circumstances into association with the enemy.<sup>12</sup> Local depredations also increased the hard times, thus helping to create a vicious circle.<sup>13</sup>

<sup>10</sup> For efforts to control the English soldiers in prison see Newhall, *op. cit.*, pp. 250-2.

<sup>11</sup> *Les Contes*, *op. cit.*, I, 105-106, 105-107, 110-111; *Reliquary*, *see cit.*, 1055.

<sup>12</sup> *Cal. Norm. Rolls*, *op. cit.*, 451, 452, 453, 475, 476-480, 482, 483, 485, 486.

<sup>13</sup> In the *Chronique de Guillaume Barons* for the barons d'Angoumois we read that John de Bistart used the alias name "dest. de rous pous des pous qui fait





laws to death, instead of having them pay their ransoms and return to the woods, and it would also make possible the release or pardon of loyal Normans wrongfully captured. Presumably it is this practice which explains the numerous ransoms for the years 1421 and after of brigands received and executed.<sup>117</sup> It was hard, however, to prevent captains and soldiers from holding their prisoners if they could get ransoms higher than the government price.<sup>118</sup>

Thoroughness in applying the laws of confiscation continued to be the practice. In June, 1421, the King, having learned that many nobles and others who were formerly his liegemen have joined the enemy or taken themselves to the caves and woods in order as brigands to prey on the loyal, orders the baillie to make inquiry concerning the names of such persons, to send the names to the royal chancery, and to seize their goods within fifteen days.<sup>119</sup> Two months later the vicomtes were ordered to provide that the goods of all rebels would be seized and sold.<sup>120</sup> Further inquiries as to the possessions of absentees were made by the vicomtes in the following year,<sup>121</sup> and in 1422 we find mention of a special commission of resumption *confinances et forfeitures*.<sup>122</sup> Renewed orders went out to proceed in the courts against non-resident holders of benefices, which would presumably be a form of pressure on rebellious Norman clerics,<sup>123</sup> inasmuch as prelates were directed in the following year to furnish lists of all holders of benefices and to arrange for the incumbents to take the oath of fealty.<sup>124</sup> And finally the baillie were directed to expel from Normandy within

directing them to pay for those which recently captured near San Thomas (intended as Rouen) (Arch. Min., Add. Ch. 102). See also ibid., 1422, R.N., 102 fo. 107v, no. 107-85, 103 fo. verso, no. 108, no. 109, Arch. de Calvados, F. Arch. Evêques, 1422 (1423) Arch. de la Seine Inf., 1422-1423, Angles, II, 126. Since the first sentence was made three shillings sterling with a mark of wax was paid in shilling a day, this would not constitute an enormous sum. See Cheval, op. cit., pp. 107, 108 notes.

<sup>117</sup> Arch. de la Seine Inf., 1422-1423, Angles, I, 126-127, no. 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

<sup>118</sup> R.N., 102 fo. 107v, no. 107-85.

<sup>119</sup> Angles, no. 102.

<sup>120</sup> Arch. Min., 1422, op. cit., 102, 103.

<sup>121</sup> Ibid., p. 107.

<sup>122</sup> Arch. de Rouen, Collection Latine 1025, I, 12. "Prenelle (Gervais), 1422-1423; for record of the sale of the manor of 1700 which was R.N., 102 fo. 107v, no. 107-85.

<sup>123</sup> Arch. Min., 1422, op. cit., 102, 103, 104.

<sup>124</sup> Ibid., pp. 102, 103.

a week all women whose husbands were in patria indelivered,<sup>126</sup> but before the end of the week a new proclamation gave all who had not yet sworn fealty until the following February to give in their allegiance.<sup>127</sup> Continuously the English ruler maintained the position that all who wished to be loyal and obedient subjects should have every opportunity to submit, and his overtures opened the new reign in 1182 with a renewed public assurance that all refugees from Normandy might safely return, excepting only those who had participated in the murder of the Duke of Burgundy, or the abduction of the Duke of Brittany, or who had been guilty of marraige or of the betrayal of towns and fortresses.<sup>128</sup>

Greater effort and greater severity does appear in connection with local defense, because in a war of raids and surprise in a partly hostile country the sudden capture of local strongholds like this was not particularly difficult, even though the neighboring garrisons could effect a prompt recapture. Statedly watch was enjoined on the castle captains,<sup>129</sup> and they were later ordered to furnish the central authority with the names of all the villages around their castles and the number of the inhabitants therein who have to help watch at night.<sup>130</sup> More rigorous terms were imposed on garrisons of recaptured places, all right of ransom being suspended and the names of all captives being sent into Rouen, presumably to find which ones could be punished for treason.<sup>131</sup> Eventually was issued a general prohibition against ransoming Normans captured in war on pain of confiscation of goods. Each captive was to be held in prison.<sup>132</sup> Particularly vigorous efforts against the brigands

<sup>126</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1284.

<sup>127</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1285.

<sup>128</sup> *ibid.*, 1482-1483, *op. cit.*, no. 1286.

<sup>129</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1287.

<sup>130</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1288.

<sup>131</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1289.

<sup>132</sup> H. Courtonne, 1482-1483, *op. cit.*, no. 1290. The intention of this is implied in the order of H. Courtonne, 1482-1483, *op. cit.*, no. 1291, which forbids the granting of ransoms to those making their ransom.

in Ango, Orléans and Parisiennes in the summer of 1418 are indicated by the organization of a special force of footy bowmen, both archers and men-at-arms, and recently foot-archers to hold the field for two months to resist and apprehend brigands. It is indicative of the government's difficulties that at the same time the vicomtes had to be directed to watch the captain of this force to see to it that they maintained discipline and prevented their men from committing "outrages, pillages or other charges a non desulgers."<sup>10</sup>

It is always hard to estimate results in a situation such as is here discussed. That the majority of the Norman gentry and people submitted, and that the Norman personnel for the local administration continued to hold office under the conqueror has long been admitted. In that respect Henry's conciliatory policy was a success. But that the English succeeded in pacifying as well as conquering the duchy is obviously not so, and their difficulties seemed to increase as the war continued. Indeed, it may be assumed that only a successful conclusion of the war would make real pacification possible. As long as the war itself dragged on the local situation would remain uncertain and disturbed, although conditions might be improved in Normandy by extending the English conquests so that the frontiers against the Armagnacs would be as far from the duchy that actual war conditions would not prevail there. This was what Bedford proceeded to do after his victory at Verneuil.

Richard A. Newhall.

<sup>10</sup> 15 July, 1418, B. N., *Chroniques de France* 1 (14-15), fol. 100 recto verso back, fol. 100v, 101r, 102r, 103r, 104r, 105r, 106r, 107r, 108r, 109r, 110r, 111r, 112r, 113r, 114r, 115r, 116r, 117r, 118r, 119r, 120r, 121r, 122r, 123r, 124r, 125r, 126r, 127r, 128r, 129r, 130r, 131r, 132r, 133r, 134r, 135r, 136r, 137r, 138r, 139r, 140r, 141r, 142r, 143r, 144r, 145r, 146r, 147r, 148r, 149r, 150r, 151r, 152r, 153r, 154r, 155r, 156r, 157r, 158r, 159r, 160r, 161r, 162r, 163r, 164r, 165r, 166r, 167r, 168r, 169r, 170r, 171r, 172r, 173r, 174r, 175r, 176r, 177r, 178r, 179r, 180r, 181r, 182r, 183r, 184r, 185r, 186r, 187r, 188r, 189r, 190r, 191r, 192r, 193r, 194r, 195r, 196r, 197r, 198r, 199r, 200r, 201r, 202r, 203r, 204r, 205r, 206r, 207r, 208r, 209r, 210r, 211r, 212r, 213r, 214r, 215r, 216r, 217r, 218r, 219r, 220r, 221r, 222r, 223r, 224r, 225r, 226r, 227r, 228r, 229r, 230r, 231r, 232r, 233r, 234r, 235r, 236r, 237r, 238r, 239r, 240r, 241r, 242r, 243r, 244r, 245r, 246r, 247r, 248r, 249r, 250r, 251r, 252r, 253r, 254r, 255r, 256r, 257r, 258r, 259r, 260r, 261r, 262r, 263r, 264r, 265r, 266r, 267r, 268r, 269r, 270r, 271r, 272r, 273r, 274r, 275r, 276r, 277r, 278r, 279r, 280r, 281r, 282r, 283r, 284r, 285r, 286r, 287r, 288r, 289r, 290r, 291r, 292r, 293r, 294r, 295r, 296r, 297r, 298r, 299r, 300r, 301r, 302r, 303r, 304r, 305r, 306r, 307r, 308r, 309r, 310r, 311r, 312r, 313r, 314r, 315r, 316r, 317r, 318r, 319r, 320r, 321r, 322r, 323r, 324r, 325r, 326r, 327r, 328r, 329r, 330r, 331r, 332r, 333r, 334r, 335r, 336r, 337r, 338r, 339r, 340r, 341r, 342r, 343r, 344r, 345r, 346r, 347r, 348r, 349r, 350r, 351r, 352r, 353r, 354r, 355r, 356r, 357r, 358r, 359r, 360r, 361r, 362r, 363r, 364r, 365r, 366r, 367r, 368r, 369r, 370r, 371r, 372r, 373r, 374r, 375r, 376r, 377r, 378r, 379r, 380r, 381r, 382r, 383r, 384r, 385r, 386r, 387r, 388r, 389r, 390r, 391r, 392r, 393r, 394r, 395r, 396r, 397r, 398r, 399r, 400r, 401r, 402r, 403r, 404r, 405r, 406r, 407r, 408r, 409r, 410r, 411r, 412r, 413r, 414r, 415r, 416r, 417r, 418r, 419r, 420r, 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587r, 588r, 589r, 590r, 591r, 592r, 593r, 594r, 595r, 596r, 597r, 598r, 599r, 600r, 601r, 602r, 603r, 604r, 605r, 606r, 607r, 608r, 609r, 610r, 611r, 612r, 613r, 614r, 615r, 616r, 617r, 618r, 619r, 620r, 621r, 622r, 623r, 624r, 625r, 626r, 627r, 628r, 629r, 630r, 631r, 632r, 633r, 634r, 635r, 636r, 637r, 638r, 639r, 640r, 641r, 642r, 643r, 644r, 645r, 646r, 647r, 648r, 649r, 650r, 651r, 652r, 653r, 654r, 655r, 656r, 657r, 658r, 659r, 660r, 661r, 662r, 663r, 664r, 665r, 666r, 667r, 668r, 669r, 670r, 671r, 672r, 673r, 674r, 675r, 676r, 677r, 678r, 679r, 680r, 681r, 682r, 683r, 684r, 685r, 686r, 687r, 688r, 689r, 690r, 691r, 692r, 693r, 694r, 695r, 696r, 697r, 698r, 699r, 700r, 701r, 702r, 703r, 704r, 705r, 706r, 707r, 708r, 709r, 710r, 711r, 712r, 713r, 714r, 715r, 716r, 717r, 718r, 719r, 720r, 721r, 722r, 723r, 724r, 725r, 726r, 727r, 728r, 729r, 730r, 731r, 732r, 733r, 734r, 735r, 736r, 737r, 738r, 739r, 740r, 741r, 742r, 743r, 744r, 745r, 746r, 747r, 748r, 749r, 750r, 751r, 752r, 753r, 754r, 755r, 756r, 757r, 758r, 759r, 760r, 761r, 762r, 763r, 764r, 765r, 766r, 767r, 768r, 769r, 770r, 771r, 772r, 773r, 774r, 775r, 776r, 777r, 778r, 779r, 780r, 781r, 782r, 783r, 784r, 785r, 786r, 787r, 788r, 789r, 790r, 791r, 792r, 793r, 794r, 795r, 796r, 797r, 798r, 799r, 800r, 801r, 802r, 803r, 804r, 805r, 806r, 807r, 808r, 809r, 810r, 811r, 812r, 813r, 814r, 815r, 816r, 817r, 818r, 819r, 820r, 821r, 822r, 823r, 824r, 825r, 826r, 827r, 828r, 829r, 830r, 831r, 832r, 833r, 834r, 835r, 836r, 837r, 838r, 839r, 840r, 841r, 842r, 843r, 844r, 845r, 846r, 847r, 848r, 849r, 850r, 851r, 852r, 853r, 854r, 855r, 856r, 857r, 858r, 859r, 860r, 861r, 862r, 863r, 864r, 865r, 866r, 867r, 868r, 869r, 870r, 871r, 872r, 873r, 874r, 875r, 876r, 877r, 878r, 879r, 880r, 881r, 882r, 883r, 884r, 885r, 886r, 887r, 888r, 889r, 890r, 891r, 892r, 893r, 894r, 895r, 896r, 897r, 898r, 899r, 900r, 901r, 902r, 903r, 904r, 905r, 906r, 907r, 908r, 909r, 910r, 911r, 912r, 913r, 914r, 915r, 916r, 917r, 918r, 919r, 920r, 921r, 922r, 923r, 924r, 925r, 926r, 927r, 928r, 929r, 930r, 931r, 932r, 933r, 934r, 935r, 936r, 937r, 938r, 939r, 940r, 941r, 942r, 943r, 944r, 945r, 946r, 947r, 948r, 949r, 950r, 951r, 952r, 953r, 954r, 955r, 956r, 957r, 958r, 959r, 960r, 961r, 962r, 963r, 964r, 965r, 966r, 967r, 968r, 969r, 970r, 971r, 972r, 973r, 974r, 975r, 976r, 977r, 978r, 979r, 980r, 981r, 982r, 983r, 984r, 985r, 986r, 987r, 988r, 989r, 990r, 991r, 992r, 993r, 994r, 995r, 996r, 997r, 998r, 999r, 1000r.



## THE NORMAN COMMUNES UNDER RICHARD AND JOHN, 1189-1204<sup>1</sup>

### I

THE Norman communes do not bulk large in the extant records of the century either before or directly after the conquest by Philip Augustus in 1204 but they are not without interest as a factor in its administrative life in this transitional period and they throw some light upon contemporary communal institutions, both in England and on the continent. More specifically, the Norman communes of this period afford additional and striking evidence of the financial weakness of the Anglo-Norman crown as clearly displayed in other connections.<sup>2</sup> They explain in considerable measure the relative ease of the French conquest and its permanence. They cast grave doubts, both by their character and by their activities, upon established views concerning the communes in Europe in the early thirteenth century in general, notably upon those views concerned with the perplexing problem of origins. Certainly the communal element does not deserve the almost complete neglect which it has experienced at the hands of the great masters of Norman history.<sup>3</sup> Descriptions must still remain incomplete for lack

<sup>1</sup> The present paper constitutes the first part of the contents of a chapter devoted to the Norman Communes which will be included in a proposed volume under the title *Norman Institutions in Transition, 1189-1204*. The remaining sections will deal with the following topics: The Communal Institutions of Normandy; The Norman Communes and the Norman Church; Philip Augustus and the Norman Communes.

<sup>2</sup> *Maguel Gauthier*, *Normandie et Anglonoie*, ed. V. Chaplais (London, 1900), passim. The disadvantage of Norman history prior to the French conquest is to be found in L. Delisle, "Des sources publiques en Normandie au douzième siècle," *R.H.F.*, x, 170-202, 207-209; xi, 220-221; xii, 27-289; d. R. M. Parisien, *The Jews of Normandy* (Manchester, 1915), pp. 192 ff.

<sup>3</sup> *Maguel Gauthier* devoted a few pages of his essay on Norman history to the Norman communes, *R.H.F.*, x, 202-203; xi, 222-223 discussed the communes incidentally in his study of the condition of the Angevin empire at that period, *La Normandie au douzième siècle* (Paris, 1888) (reprinted Paris, 1900), pp. 102 ff., 103 ff., and gave some other pages of his position to a list of the Norman communes, with allusions to (Norman), Breton, and other records in his *Études normandes* as Philip Augustus, *Année P.H.L.* (new issue) at Philippe-Auguste (*R.H.F.*, vol. xvi) and separately, Paris, 1901, pp. 20-210. Professor Charles H. Haskins, both in his *Norman Institutions* (Cambridge

of facts in the documents as because the documents themselves are missing, and conclusions must still be tentative pending more extensive study of connected material from the medieval period as a whole;<sup>7</sup> yet there seems no good reason why a preliminary account of the Norman conquest from the accession of Richard to the death of Philip Augustus should be longer delayed. It is hardly possible, indeed, to attack the legal and financial problems of the duchy during the first two decades of the French conquest until the confusion surrounding the succession shall have been at least partially reduced to order.

The problem of origins is encountered at the very outset. The list of the English rulers of the duchy seems to have been responsible for at least four of the Norman conquests,<sup>8</sup> quite possibly for nine.<sup>9</sup> Since the total number of important Norman conquests in this period does not much exceed twice the latter figure,<sup>10</sup> the necessity for an accurate evaluation of John's

<sup>7</sup> 1930) and in the recent articles which preceded that volume, there very little to say concerning Norman medieval institutions. Professor F. M. Powicke (p. vii) pays some attention to the Norman conquests in connection with political ecclesiastical warfare dealt with the economic problem itself at 25. A good deal may be learned about the Norman conquests in A. Labrousse, *Les conquêtes françaises d'Espagne: les Capétiens de 1065 à 1195* (Paris, 1929), especially 141-51; see also Barlow, *Spain, 1065-1195*, and G. Paul Tait, *Les conquêtes françaises en Espagne* (Paris, 1929), although the Norman references in both volumes are scattered and have been chosen primarily for illustrative purposes. Only one Norman conquest, Spain, has created anything like adequate attention from scholars in Italy. An *Atlantico del Regno* (Paris, 1929), a *Storia della Sicilia* (Rome, 1929), and *de Sicilia, Sicilia: un le conquête française de Sicile* (Rome, 1927), all somewhat out of date but all still useful. A *Storia della Sicilia* (Paris, 1929) is a recent and an excellent summary and it is to be hoped that studies of the other Norman conquests will be forthcoming.

<sup>8</sup> The studies of Geoffrey and Hughson are headlong over parties in this connection and the completed volume is crowded with such superfluous material as the "les 'aires' des villes françaises au 12<sup>e</sup> et 13<sup>e</sup> siècles," *Le moyen âge*, xvi, 1-20; "La route des villes d'Anjou," *ibid.*, xvi, 1-25; "The English Conquest of the 'Talis,'" *Revue de l'histoire de France*, x, 192-200; "The English Conquest of England," *Revue de l'histoire de France* (Geneva, 1929), pp. 200-204.

<sup>9</sup> *Angles, France, Barons, Monks: the Conquest of Normandy* (London, 1929), pp. 10-100.

<sup>10</sup> In the medieval the conquest of Sicily, Corsica, Sardinia, and Flanders just before the French conquest, *ibid.*, pp. 10-100; we do not know exactly where or by whom these conquests were made as if their origin from an earlier period had been forgotten.

<sup>11</sup> If all the Norman conquests which preceded some of the conquests of a conquest are treated these would certainly be more than fifty; probably not more than twenty of these conquests were conquests in any strict definition of the word; consequently of sufficient stability to have been of any considerable importance in the history of the

motives is apparent. The usual explanation for this comparatively wholesale recognition of the communal principle by the most reckless of the sons of Henry II.<sup>1</sup> has been the growing weakness of the Norman state in face of steadily increasing French aggression. The connection between communal charters and declining military strength, indeed, seems obvious enough, especially after 1180.<sup>2</sup> It is possible, however, that John's interest in the communal movement was not aroused solely or even considerably by military factors; the present paper will attempt to demonstrate that he was governed by another interest, equally urgent in the last years of the duchy and perhaps more fundamental.

The military theory concerning the grant of communal privileges is an alluring one and constitutes by far the simplest formula by which John's action may be explained. John's resources both in money and in men were inadequate; the danger from the advancing French troops was great and imminent. He was obliged to meet purely military exigencies in whatever way was least expensive for himself. He therefore applied, rather fruitlessly, a device which his predecessors had used much more sparingly. Communities which had previously lacked such privileges or possessed them in a partial or irregular form were given the right to account at the Exchequer for their financial obligations to the duke through their own officials and were allowed to hold courts of their own for at least the ordinary routine judicial business of the township. In return the communities thus created would oppose the ducal marches with armed force, perhaps even joining the feudal host on the battlefield itself.<sup>3</sup> At the least the members of the communities would per-

fectly. A definitive list of the Norman communities in this period is under construction but cannot be included in the present paper.

<sup>1</sup> John also granted numerous and important charters to England in this period: R. B. Dobson, "Baronial Struggles in the Reign of John," *ESQ.*, vii, 85-104, and R. B. Dobson, *Baronial Struggle 1212-1264* (Cambridge, 1920); see also David Knowles, ed. II, *A. S. Murky Chronicle*, 1089, I, part 1 (1089-1091), passim; and David Knowles, *Formation*, ed. R. B. Murky Chronicle, 1089, I, part 1 (1089-1091), passim; cf. II, R. Knowles, and R. B. Knowles, *History of the Angevin and Plantagenet Dynasties of the House of England* (London, 1920), I, pp. 42-43.

<sup>2</sup> Cf. *ibid.*, second, passim; F. W. L. G. G., pp. 118-119.

<sup>3</sup> The grant of communitas by John of various military obligations may be found in *ESQ.* 108, 109, 110-111 (Henry), 112-113 (Matilda) and *ibid.* 114 (John), the charters





action of the Normans attached, in the absence of the captive Richard, by which the men of Evreux were granted communal privileges in order that they might the more effectively defend the town against the French, may also be cited with some force.<sup>12</sup> The close connection of the Norman commune and its neighboring castle, moreover, is a striking fact and argues a mutual interdependence which squares well with the military theory.<sup>13</sup>

On the other hand, there are plenty of facts which do not fit this hypothesis. We are not even sure that John's questions were real. In some cases, e.g., Ka, we know that the communal status had existed previously and that he merely confirmed it.<sup>14</sup> In other cases we suspect this to have been true, for a feudal society could not produce communities ever right suitable for such grants, certainly not without hard protests from vested interests of various kinds. Such groups must in the very nature of things have evolved slowly. They could not have been constructed deliberately at any time, for military or for other reasons. John could hardly have altered more than a legal status; he could have created little.<sup>15</sup> The military theory

<sup>12</sup> R.P., vol. I, *Præsentia de la profane*, nos. 24, 25; H.A.H., no. 143; Guy, *Ballienses*, I, 82, note 1, where this case is argued in favor of the military theory.

<sup>13</sup> See, e.g., *Pat.*, p. 416 (Richard of Cornwall's warrant, no. 16, also R.P., vol. I, *Quædam de Communiis*, no. 41, 42, 46, 47). The close relationship between commune and castle is noted in *Cartæ de Communiis* (London), pp. 292-302. (See, e.g., p. 292, R. Anselm, *Quædam de Communiis* (Paris) de Philippo, *Episcopo* (Paris, 1876), pp. 118-119, J. Guichard, "Les communes communales et les seigneurs seigneuriaux," *Revue d'histoire de France* (Paris) de la commune de Paris, no. 10, 191-192.)

<sup>14</sup> As the scope of the vol. I, *Præsentia* (Paris, 1871), p. 1, asserts that the reason of the fact of the Norman commune to possess privileges but that it does not know whether it should have privileges through holding or not. The other reference to the long history of these communes, *Cartæ de Communiis*, p. 292 (R.P., vol. I, 41, 42, 46, 47, no. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000).

<sup>15</sup> It is to be remembered, I am indebted to Professor Charles H. McIlwain for the remark that most communal charters do not grant the rights which they confirmed and that a charter is good evidence for the existence of a commune in a given year but rather just proof of its existence at any particular time. The word commune (all of them, may mean both or both, as, in the words of W. H. McIlwain (*English Charters of Communes* on the Great Charter of King John (London, 1911), no. 107-108) it may mean anything. Certainly a commune with some sort of legislative work, have subordinated to the grant of confirmation of communal charters. The commune had to be a good person before it could be made a commune by charter or by local custom (London, W. H. McIlwain, *English Charters of Communes* (London, 1911), pp. 107-108). The



not have formulated or carried out the carefully calculated policy of the Norman conquest in 1066.<sup>12</sup> In any case, the castles of Normandy were seldom if ever used upon the actual battlefield or for out-guards upon any considerable scale. Even at Rouen, a decade later, communal troops were a negligible factor.<sup>13</sup> The Norman conquest was certainly of no military value to either John or Philip Augustus. The communal militia of Rouen, the largest city in the duchy, has left practically no trace at all in the records of the thirteenth century.<sup>14</sup>

There is no evidence that John even attempted to use the castles against the French in a military way. He possessed, as is well known, an elaborately constructed and well-maintained system of defense in Normandy, including both powerful fortresses skillfully arranged in concentric circles and large quantities of feudal and mercenary troops of every description.<sup>15</sup> This equipment he made no serious effort to utilize. The garrisons of his fortresses, in the critical months of 1196 and 1194, fought by themselves or made terms with

<sup>12</sup> Notably Rouen, Falaise, and Caen; cf. *Normans*, pp. 170-2.

<sup>13</sup> Lines 127-128, *Chronique de Guillaume le Conquérant*, ed. René Leprieux (Paris, 1888-1892), with their reference to the king of France with his barons and his army; furthermore, they were to receive hostages. Certain it is that the presence of communal troops at Rouen and, by implication, in the other barons of this period, became extremely soon prohibited. Notably in Henry II's reign, *Chronique des rois de France* (Paris, 1889), I, 225, states that the city of the communal militia is to be treated this period has been greatly exaggerated and confused with that of the previous centuries. "Les milices communales," pp. 100-102, states that the communes were not important at Rouen and hence his conclusion is just as the great and vast numbers of the barons by William I. Henry II. Reginald, *John and Philip the great conquerors* (Paris, in *Études de Langue*, 1892), I, 225, states that Philip Augustus created communes for military reasons and that he used them at Rouen; he cites the communes which were created but none in Normandy. Charles-Thomas, *History of the art of War* (London, 1892), I, 476, states that Philip Augustus had two thousand communal soldiers at Rouen, along as the authority of Reginald. He writes on 207-208 (Paris, 1892), I, 4-5. Andrieu, *Revue des Études romanes*, p. 1, remarks that the city of the communal troops of Rouen was exaggerated because the tendency is now in the opposite direction. H. Roussier, *Revue des Études romanes* at Rouen (Paris, 1892), p. 28, states emphatically that the militia of Rouen has left practically no trace at all in the records of the thirteenth century. H. Huchard, *Revue des Études romanes* at Rouen, the publication *Revue des Études*, 1892, p. 228, states as important in the presence of communal troops at Rouen that it was that they were there; M. Walter, *De la bataille de Hogue* (Paris in France under Philip Augustus, 1179-1194) (Louvain, 1892), p. 224, states that the commune was of great military aid to Philip Augustus, but not at Rouen.

<sup>14</sup> *Normans*, op. cit., p. 225.

<sup>15</sup> *Normans*, op. cit. 112 ff.



all men primarily interested in other matters and more than a little disinclined to support their duke in an apparently never-ending warfare against their nearest and most powerful neighbor. The only possible gain for the duke in military matters from the commune, indeed, seems to have been the greater probability that the military service actually owed by the commune would be adequately and promptly rendered. The privileged community was jealous of its rights and proud of its status; it had a strong desire to maintain the enjoyment of the financial and legal advantages which had originally rewarded its members to a large money payment for their charter and to the unknown complications of collective responsibility in all matters, including military. The commune was more valuable to the duke than the same community functioning in a strictly feudal way or, a more likely alternative, than the same community exempt wholly or in part the military requirements for which it was theoretically responsible. It is difficult to perceive any other or further advantage of a military nature for the duke in the communal status.<sup>12</sup>

None of the best evidence for the military theory, furthermore, will hardly bear investigation. The writs to the men of Ex created nothing and the military activities involved were directed against local enemies of the duke and not against the French.<sup>10</sup> Even the action of the Norman assembled at Exeter in the time of Richard, at first so convincing, seems of doubtful value at second glance.<sup>11</sup> It was a time of very considerable and quite unusual stress. French troops were at the gate of the city. The duke was a captive in the Empire, the bishop was dead, and the bishop-elect was with the duke. Even the count of Exeter was a prisoner, the whole district was under the direct

\* Luciani, "Los milicos comunistas," pp. 129-134, denies the importance of the communist's military training for the Marxist struggle in this period. R. Przewski, *La historia revolucionaria de Nicaragua* (Miami, 1980), p. 1, n. 1, points out that Pablo Amador took money from the communist for place of arms. M. Drew, "Los comunistas de la zona," *Womando* (San José), 1981, 187, has shown that the first need of revolutionary guerrillas and cooperation toward military training of campesinos, "los milicos son milicos." *La voz de los milicos*, 1981.

<sup>10</sup> *Journal, February*, no. 12th May, Middlemarch, 1. 139-40; *Ibid.*, *III*, Feb. 19, p. 46; *ibid.*, *III*, May, 1. 139. For similar words in *Tempest*.

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supervision of forest officers.<sup>67</sup> The inhabitants of the town were aroused so thoroughly that they worked upon the fortifications on Sunday, for which they were duly pardoned by the archbishop. The removal of Normandy, after one of the dukes and therefore possessed of the widest powers, made a mistake as an emergency measure, presumably in order to create the framework for concerted action. It may be that he acted in this way primarily in order to control the situation. Whatever his motives may have been, an inquest of 1299 asserted that nothing had been changed by his action. The men of the bishop owed no tallage to count, duke, or king.<sup>68</sup> The duke had the same rights over the bishop of Evreux as those possessed over the other Norman bishops, neither more nor less. The whole incident proves the exceptional power of the Norman dukes or of their vassals, hardly more. The military basis for the conquest, from this evidence, was at the most defense and defense alone.<sup>69</sup>

In 1066, when the loss of Normandy seemed to be an accomplished fact, John displayed enormous energy in England in the organization of the defense of that country against the expected French invasion. He made all England a commune<sup>70</sup> and exacted an oath of allegiance from all males of twelve years of age or more. But, as the chronicler sadly relates, the host which was gathered at Portsmouth in response to the royal summons was never used. The king and a few of his companions did embark but they landed again almost immediately in neighboring Dorsetshire. "Reverens igitur rex cepit de consilio, interitum, militum, et viri religiosi pœnitentem Revocare infantem. . . ."<sup>71</sup> This last sentence of the account is

<sup>67</sup> Douglas, I, pp. 222-223.

<sup>68</sup> Russell-Gallier, in. 214 D.P., note, *Præsentia de la profane*, nos. 61, 62.

<sup>69</sup> Cf. Douglas, *La commune française*, p. 220.

<sup>70</sup> I think that some of the royal summons of the count is preserved, cf. McKelvey, *Mapes Carta*, passim.

<sup>71</sup> Matthew Paris, *Chronica majora*, ed. Leach (London, 1892, 2 vols.), II, 225, for conflicting accounts of the expedition of 1066, see Robert G. Sayers, *Norman Anarchy*, ed. Norman (London, 1875, 2 vols.), p. 161. *Bartholomæus Anglicanus* is quoted in Mapes, nos. 1102-1103; cf. Sayers, *John Lackland* (London, 1902), pp. 142 ff.; P. H. Reuben, "William de Warenne and the Keeper of the King's Port and Hulls," *R.H.C.*, xl, 275 (the great expense of the expedition).

probably the most illuminating of all. At least the theory that John created or confirmed communes both in England and in Normandy mainly from financial motives is perfectly tenable. It corresponds with the known rapacity of the monarch. It fits in with our knowledge of the Angevin Empire at this time.<sup>10</sup> It is directly in line with the Rhenish tradition and perfectly consistent with every known fact concerning Normandy in the troubled years which preceded the loss of the duchy.<sup>11</sup>

Even the king of France received a liberal reward for the confirmation of communal privileges in this period.<sup>20</sup> Richard and John, so successful in selling every kind of legal document and everything else which possessed a value in the marketplace, are known to have been equally successful.<sup>21</sup> But the

<sup>14</sup>J. T. T. "The Great Beryl and the Emerald in England, 1700-1800," *J. R. S.*, 1951, 104-104, points out the story of Richard the money and the great increase in the number of goldsmiths in England. However, he thinks it unlikely that Richard had any love for the money and concludes that his real motive was ambition. The text is supposed to be a self-portrait, he would all London itself if any one would help it, *ibid.*, 104-105.

<sup>17</sup>For instance, see *International Migration*, p. 34; Rodrik, *What do We Really Know*, pp. 108 ff.; M. Kolmard, *La mesure des migrations*, which can be properly translated into, in this sense, *measures* (Paris, 1999), p. 107, mentions the measures against the earlier restriction the condition of confirmation of developed countries being given by the author quoted, that that kind of law, permits the immigrants to grant all sorts of privileges to all wanted persons and institutions, all for money, and even eventually, for labour.

[illegible]

<sup>14</sup> *Edinburgh, House of Lords*, 1803, 18 (Pitcairney, *House of Lords*, 1803, 18, 347) and *Parliamentary Papers*, 1803, 18, 1, for the financial advantages which accrued to Great Britain from the sale of slaves. *Ibid.*, pp. 75-76, 174. She probably bought the *Red Rover* in 1788 and sold it two or three years later. The exact date is uncertain. *Ibid.* 18 is printed with the calendar bought by Charles as a commission for Philip, son of Sir Mathew Pulteney, 1. 40. *Recherches de l'Etat de France*, vi, 440-1. *Ibid.* "Une libération de la liste de Charles Auguste Pulteney (père) était..." *Compte des contributions de la Normandie* (1787-1788, *Compte rendu au Parlement*, 1788, 1. 102 ff., and in *Journal de Commerce*, vi, 12). *Parliament and Country*. The very considerable sum paid to John by the English bought in this period for manumission of their subjects may be found in *Notes de Charles à Pulteney* and T. B. Macleay (London, 1893, pp. 1, 2, 5, 10, 11, 14, 16, 17, 24, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777





regularly included in the formal accounting of the town's officials with the Exchequer; some of these payments may never have been so included. The commune, however, was responsible as a group for the fiscal revenue of the district. This responsibility may have been indirect in part but it was direct enough for the bulk of the amount involved. The commune was actively engaged in the commune from which so much of the fiscal revenue came. It was closely associated with the neighbouring castle; the castellan<sup>12</sup> of the latter watched the potential treasure chest of the adjacent commune as keenly as the actual treasure chests in the strong room of the castle tower. The commune, with its obvious advantages for both sides,<sup>13</sup> certainly played an important part in the fiscal exploitation of the district.<sup>14</sup> The convenience and the efficiency of the commune as a unit in the collection of tallage dues would probably have recommended it as a fiscal unit to the official revenue officials.<sup>15</sup> The results of the Norman commune in this

<sup>12</sup> This official was much more than merely a military person; his relation to French administrative machinery of the twelfth century is investigated in detail.

<sup>13</sup> Both the medieval district in Normandy and the village of Hingham recall the device of collective responsibility for communal dues (tallage) within Normandy. Cf. *Normandie*, nos. 11, 1121; *Lehmann, Institutions communales*, I, 124-127; *Lehmann, Chartes*, p. 220; *Les 100 Chartes*, p. 22; the record of Hingham pay for tithing the ville of Hingham in 1222 was made and sworn to by one tithing (120) more than they have paid in the past; M. Roussier, *Chapitre France in Medieval England* (Cambridge, 1924), p. 122, shows the Jews bond which has required what money will spend for the Jews; *Prentiss, J.E.S.*, vol. 242, for the communal activity of the Norman towns under John; W. A. Morris, *The Medieval English Sheriff in office* (London, 1897), pp. 22, 224, 227-128; *Norman, Some histories*, vol. 1.

<sup>14</sup> *Yule, J.E.S.*, vol. 242; *Collins, J.E.S.*, I, 227, 228; *Norman, op. cit.*, p. 122; *Yule, Parliaments*, I, 228.

<sup>15</sup> The whole question of tallage is a difficult one and needs further study. The Exchequer records of Normandy under Richard and John indicate clearly that the Norman dues collected large sums throughout the district by tallage and that the most money was not levied, just under 12% of Hingham, I, 222-224. "Tallage both just commensurate between." On the other hand, Philip Augustus agreed that the rate of Normans was to make tallage only of which was less great and not as a voluntary payment. In his charter of 1201; A. Prentiss, *Norman Communes in England* (Cambridge, 1924), p. 122. Exemption from tallage may be found in other charters of the period; e.g., *La Pierre, Chart. I, 227*; *Lehmann, op. cit.* Prentiss, pp. 122-123; *Prentiss, J.E.S.*, vol. 242; *Prentiss, J.E.S.*, vol. 242; S. B. Strickland, *Studies in Norman under John and Henry* (13) *Norman*, 1910, pp. 242-243; *Lehmann, Institutions des communes*, I, 122; *Lehmann, Les communes*, appendix no. 12; *Norman, Chart. I, 222*. The most recent work on the question of tallage has been done by Prentiss (last Hingham). The following statement is a statement for view that tallage was the sign of wealth and one of the principal things which a group of taxpayers would have to obtain, the towns in



barons, a special administrative device was necessary.<sup>16</sup> There was undoubtedly considerable protest from many sides.<sup>17</sup> To give the commune a most adequate for the special needs of its inhabitants was surely to call forth a flood of protests from both feudal and ecclesiastical sources. Here the commune played a role similar to that of the *bailli* and that of the *fillesort* in the dramatic conflict of dual-centralized power against feudal and ecclesiastical prerogatives.<sup>18</sup>

A number of other factors point to this same conclusion that the Norman communes were after all created and confirmed primarily for financial reasons. The duke was an important investor in communal real-estate and thus in a position to profit from communal prosperity.<sup>19</sup> The Jews, special wards of the Norman duke and a major source of dual revenue, were grouped in the towns and closely allied with their fortunes.<sup>20</sup> The Norman commune came to an end only when their financial condition became involved; it was financial weakness which delivered them into the hands of the French king a century later.<sup>21</sup>

Of course there were other factors than the financial in the origin and growth of the Norman commune, including the military.<sup>22</sup> There was always the frontier commune to be reckoned with, exceptional in every way.<sup>23</sup> The existence and name they tended to maintain even when Fustel de Coulanges said the language in Normandy had been so effectively rooted from power in the twelfth century as the language in England in the same period; he is of the opinion that Breton, Flem, and Italian were as important as any other tongue in England.

<sup>16</sup> Fustel, *Le Rôle de la commune*, pp. 140-141; the grant of the towns franchise to citizens of Lyons in 1190 is the real *acta libertatis*, *Statutes of the Barons*, II: 295-297, R.S., edn., Harlow, Mass. 1905.

<sup>17</sup> Fustel, *Le Rôle de la commune*, pp. 10-12.

<sup>18</sup> Cf. May, *Medievalism*, I, 240.

<sup>19</sup> Fustel, *R.S.E.*, ed. 101-102; Chabot, *Statuts de Rouen*, I, 56; Fustel de Coulanges, *Essai* F.XI, p. 180.

<sup>20</sup> See *Ann. Hist.*, pp. 116 (London), 116 (Rouen and Caen), 116 (Provence), ed. T. H. Byles (London, 1909), pp. 116 (Rouen and Caen), 116 (Provence), *R.S.E.*, ed. 101, 102; Byles, *Charters*, pp. 116-117; 118-119, thinks that the Jews were obliged to live near the market in the towns of E. France, *Annuaire Communal de France* (Paris, 1899), p. 1 (1899), 101, p. 2, he points out that the Jews did not possess the desired safeguard as the other inhabitants of the town were obliged to do.

<sup>21</sup> Fustel, *Les communes françaises*, pp. 180-182, 184-185.

<sup>22</sup> See *Ann. Hist.*, pp. 116, 118; *Ann. Rouennais*, I, 55-56, 60, 62, 101.

<sup>23</sup> Fustel, *Les communes françaises*, p. 183; Legh, *Three reigns of France*, p. 118.

influence of trade-routes played their part in Normandy as elsewhere in Europe in creating and maintaining towns.<sup>17</sup> The intense rivalry of Rouen and Paris, so important in the period before 1104, will explain much of the local interest in Rouen.<sup>18</sup> The transportation needs of the Norman dukes at Dieppe explain the development of that urban group.<sup>19</sup> Hostility to the church, the need for more adequate judicial organisation in the increasingly complex life of the urban communities of the duchy,<sup>20</sup> and many other factors must be borne in mind in any complete evaluation of the forces inherent in the communal movement in ducal Normandy. Many of these factors are as difficult to appraise as the undoubted but ill-defined influence of the great Flemish towns to the north<sup>21</sup> or of the English towns, particularly London, a few short miles across the channel.<sup>22</sup>

Of all these reasons for the origin and growth of the Norman communities under Richard and John, the financial needs of the Norman dukes seem to have been most fundamental, plainly explaining the activities of Richard and John in this direction and completely consistent with all the evidence now at our disposal.<sup>23</sup>

## II

The sum total of extant evidence for the internal organisation of the Norman communities in this period is surprisingly small in view of the number and the activity of the units involved.<sup>24</sup>

*Revue Historique*, cxviii, 178; *Revue des Études Historiques de Normandie*, I, 26; the English town was often regarded as the duke's town as in London (*Regestes*, II, 264).

<sup>17</sup> *Chap. Institutions*, I, 29-31; de Félis, *Communes normandes*, I, 120-122, 127 ff.; H. Prost, *Évolution du Commerce en France* (1892), p. 24.

<sup>18</sup> *Chartes*, *Regestes*, I, no. 202; *Cartulaire normand*, nos. 1220, 1222.

<sup>19</sup> *Regestes*, *passim*; *Revue Historique*, *passim*.

<sup>20</sup> *Chartes*, *Institutions normandes*, I, 122-125; *Chartes*, *Statuts de Rouen*, I, 27-28; *Chap. Institutions*, I, 40-42; *Fénelon, Essai de Populations*, p. 127.

<sup>21</sup> Cf. *Les Bruges*, "Relation communales du grand comte Henri et de Guillaume," *Cronica de Willem de Brugghe*, *Texte de l'original*, *Texte de la version*, I, 70 ff.

<sup>22</sup> *De Félis, Communes normandes*, I, 121; McKelvie, *Anglo-Normans*, pp. 400-402.

<sup>23</sup> Cf. H. Hauser, *Revue Historique*, p. 20; H. Hauser, *Forschungsgeschichte*, p. 170; *Revue*, pp. 122-123. See "Communes," *Les grande encyclopédie*, *Les communes* Rouen in the lifetime of the regent of the French monarch.

<sup>24</sup> *Chart. de ville de Paris*, 1292, no. 20000; manuscript, depends for its details almost entirely upon documents of the fourteenth century and later.

Rome, to be sure, has furnished us with something akin to a constitutional charter.<sup>17</sup> Yet even this document, though lengthy and adduced in detail, does not inform us at all on many points which we consider of the greatest importance. The *Enchiridion* contains no reference, for example, to the election of the pope of Rome although we are certain that the pope constituted the administrative head of the commune, both by implication from the document itself and because of a great deal of other evidence.<sup>18</sup> The argument from silence is a dangerous one but it is not inherently false. If the people of Rome were so accustomed to the process by which the pope was selected as to need no statement of this machinery in a document professing to deal with matters of this kind,<sup>19</sup> then the principles of communal organization were well known in Rome at least and may have been clearly understood in all the urban communities throughout the day.<sup>20</sup>

So much of the machinery of life in the twelfth century, after all, was customary.<sup>21</sup> Even the most crucial problems of church

<sup>17</sup>Clay, *Enchiridion*, 2, 145; cf. *Enchiridion: Its contents presented*, pp. 105, 106.

<sup>18</sup>Notari, *Statuta de Roma*, I, 398-400; *Enchiridion*, op. cit., p. 105 points out that most of the communal statutes of France have been lost owing to the destruction of the archives: the statute of Barcelona was cited as to the election of its mayor (Notari, *Statuta* *ibidem*); still, the name of the mayor indicated the organizational line as not to be found in the statute (Notari, *Statuta* *ibidem*, p. 307) cf. Clark, *Essays*, pp. 55-56.

<sup>19</sup>Notari, *Statuta*, op. cit., 105, thinks that through accident omitted in the last paragraph of Notari's list of papal charters is a reference to them in the *Statutum* of Pope of Avignon, 1305, p. 106 of L. Vais, *Statutum des papes de la couronne de France* (Paris, 1912), p. 12.

<sup>20</sup>J. Tait, "Liberty Rights," *Europe in Medieval History* presented to Thomas Hodgkin (Oxford, 1930), p. 27, thinks that any grant to burghs of a borough is by now so ubiquitous, with reservation of a money rent only, that grant of boroughs is the following reference for the ubiquity and ubiquity of the communal idea in later times: just adjacent to the middle of the twelfth century (the time, 1182 (1180), grant of lower rights to the town of Lyons (1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 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the ducal during the twelfth century;" many became communes under the last two dukes and many others, it may be supposed, did not. In either case it is clear that the Normandy of Richard and John found itself able to think in communal terms; apparently the communal organization of life was widespread and thoroughly understood.<sup>22</sup> The mere fact that the great cities of the duchy were content to make their terms with the French conqueror in 1202-1204 through communal charters and the confirmation of communal privileges<sup>23</sup> indicates the value placed upon the administrative machinery of the commune by its members and their confidence in its underlying principles.

Two things at the very least, however, must have been at the bottom of this communal organization: some form of autonomy in the administration of justice and some kind of autonomy in finance.<sup>24</sup> Since the commune was part and parcel of the feudal world of its day we should expect to find the administration of finance intimately associated with that of justice. The feudal world was built squarely on a fusion (the modern world would call it a confusion) of finance, justice, and military

<sup>22</sup> *Anglais confondus* in privileges when he conquered it in 1204, see Labrousse, "C'est l'union de l'union qui est" citée, *R.H.C.*, vol. 104, 12, *Normandie, Saint-pierre-vaux-de-Mercy*, I, 40; *Revue*, R.H.C., vol. 104. Pollard and Maitland, *The History of England*, vol. 1, 320, point out that the ducal kept some of a town's rights like its life and that some towns also had in the material original of the term it is great that some important in some other parts of France than it is in Normandy. For the communes of Champagne, see R. Bouteiller, *Les communes communales dans le comté de Champagne au XII<sup>e</sup> et XIII<sup>e</sup> siècles* (Paris, 1894), pp. 167-174.

<sup>23</sup> Groups of towns may be found answering for their dues to the Bishopric or the great lords in several instances; they did not necessarily commune. see *Anglais*, I, 145, 162, 177, 182, 183, 2, 3, 104, 105-106, 107, 108-109, 109, 110, 111, 112, 113, 114.

<sup>24</sup> The commune in finance in La Rochelle, R.H.C., vol. 103, 34, n. 2, 104, n. 3; *Normandie*, a general understanding of what a commune was of Rouen, *Revue*, vol. 105-106, for the material charters. The communal burghs and their problems in the *Paris Ancien*, *Revue*, n. 1-12, and n. 13-14, in *Chronique de Normandie*, ed. R. Tardif (Paris, 1912), regarding the substantial type of bourgeoisie in Normandy at least as early as 1200.

<sup>25</sup> *Revue*, vol. 104, 104-105.

<sup>26</sup> The positive evidence for the English burghs under John Balliol was analyzed by Bellamy, *R.H.C.*, vol. 103, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.









Opium,<sup>120</sup> and numerous valuable concessions of various kinds.<sup>121</sup> The concessions were essentially industrial and commercial in character, as such. Their financial aspects were of the greatest importance.

Many communities within the duchy possessed one or more of these coveted financial privileges, even including collective responsibility at the Exchequer, and yet did not possess the communal status legally.<sup>121</sup> Such communities were in no position to defend or defend their rights against the Anglo-Norman government, whether in the capable hands of Richard or in the ruthless grasp of John.<sup>122</sup> The relative security of the communal organisation was absolutely essential for the community which was self-conscious of its own unity and would be rid of the disturbing interference of royal officials, especially in finance.<sup>123</sup> Burgeage towns, for example, made payments for the individual members which resembled rent and took the place of all other taxation, an inalienable boon to industrial and merchant alike, but burgeage towns could not be stable without a communal organisation to maintain it.<sup>124</sup> In the troubled days of the last Plantagenet dukes of Normandy communal charters were almost literally worth their weight in gold.<sup>125</sup>

[illegible][illegible]

<sup>100</sup> Jean Bédarride, *États de l'Empire russe*, pp. 177–181, 188–193, Paris: Sédot-Marcovici, Les Deux, 1838, pp. 182–183, 189–190, 191–192.

<sup>27</sup> For more work by Richard and John on the distribution, see Stephens, J. 1981 (Oxford Lecture), 197-202; Stephens, J. 1982 (London), 104; Jones, A. 1982 (Oxford), p. 100; Jones, A. 1983 (Oxford), 1-10-16.

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<sup>10</sup> The foreigner's name was Douglas, J. M. (earrings without permission of the donor, died 1. 10. 1971, 194, 195 and 2. 194, 195). See payment of honorariums for the choir, British Museum Archives in Africa VI, sub-volume, pp. 149-50. See commentaries in the *Journal*, 1964, also *Journal*, 1965, also on the paper, printed, *East*, 1964, pp. 14-15. See *Journal*, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618

<sup>10</sup> J. H. Brown, *A History of the Bureau of the Wage of English, 1800-1900* (Ph. Diss., 1907), 197; India obviously had greater reserves than England in 1800 because there would pay more than London, England, "We were the first to possess" (1907, 1908). Furthermore, it would mean the strongest of the land should be cleared and

Because of this men were willing to buy these documents and because of this, one is tempted to say solely for this reason, the dukes were willing to sell them.

—SHERIDAN H. PARKMAN—

*continues the de Meulles, p. 100 ff. P., only. Questioning on this. Considered normal, no. 100). See also Pica, pp. 101, 102, 103, 104.*

ALEXANDER III, THE ENCYCLOPAEDIA DOXOGRAPHICA  
AND THE RISE OF THE UNIVERSITIES

The pontificate of Alexander III, 1249-1261, fell within the period which saw the transformation of certain centers of learning into Universities. The Universities as legal corporations did not appear until the beginning of the thirteenth century and later, but the conditions which caused their rise already existed and were revealing themselves in the twelfth century. To relate Alexander III with the movement which resulted in the constitution of the Universities is the purpose of this paper.

Papal legislation for church schools was inaugurated in the thirteenth century by Eugenius III and Leo IV. A Council at Rome, held under the former in 1208, ordered that in all dioceses and parishes masters able to teach the liberal arts and sacred dogmas should be appointed by the bishops.<sup>1</sup> Another Council, held by Leo IV at Rome in 1222, provided that the office of teaching in episcopal schools should be given to clerics, and that parish churches should give elementary instruction in Holy Scripture and in the offices.<sup>2</sup> No new policy, but rather a renewal of papal interest after two centuries of silence is to be found in the decision of the Council of Rome of 1279, which again imposed on the bishops the obligation to establish schools in their dioceses.<sup>3</sup>

The twelfth century brought a change in the nature of pagan legislation for the schools, a change stimulated by two movements; first, the fight against slavery in the Church; secondly, the intellectual renaissance. Scholarly slavery arose from the organization of teaching in the *liberalia*. In the early period, before the cathedral schools became important as centers of

<sup>1</sup> M. J. Griffin, *Ergonomics*, 1990, 33, 1, 1-10, esp. 1-6. Cf. also reviews, and also cited in 1990, 33, 1, 1-10, esp. 1-6. Cf. also reviews, and also cited in 1990, 33, 1, 1-10, esp. 1-6.

<sup>11</sup> M. J. Fréchet, *Polymers: Perspectives from a Complexed Polymer*, ed. H. Lohm and G. V. Schulz, VCH, 1984, pp. 101-11.

<sup>17</sup> Leland Blank, 20, 300. "An answer explained under Education, is only available through Rednet." *Rednet*, 2002, 2003, 2004, 2005. Only the title of this entry exists.

learning in the eleventh century, the bishop himself was sometimes the master who attracted students. Often an outsider, some wandering scholar, was called in to teach. The office of master acquired greater dignity when the number of students warranted the appointment of several teachers at the Cathedral as in the whole bishopric, and from that time the master of the schools tended to become the official who superintended the schools and granted the license to teach. He himself ceased to teach, or occasionally retained the teaching of theology, leaving instruction in grammar and dialectic to his subordinates, the ordinary masters. At the same time, that is, from the eleventh century on, it became customary to make this official a member of the cathedral chapter of canons; he was called *chancellor*, as at Paris,<sup>4</sup> or *scholasticus*, *magistrolus*, or *magister scholarum*.<sup>5</sup> Subject only to the cathedral chapter and bishop, he supervised the cathedral schools and sometimes those of the whole diocese.<sup>6</sup> His authority was necessary, at least generally in France, for the setting up of schools by scholars desiring to teach for profit.

When simony flourished everywhere it was natural that it should affect the office of the *magister scholarum*. If the teacher profited from his pupils, the master of the schools found it reasonable to demand his share by exacting a fee for granting the license to teach. This was of course simony, and as such came under the general condemnation of that evil by Gregory VII and his successors.<sup>7</sup> Scholastic simony itself, however, was not mentioned by Gregory VIII, nor condemned officially until 1158. Conditions in the schools did not yet demand papal intervention.

<sup>4</sup> He was already master of the school of Paris in 1080 (R. Baskoff, *The University of France in the Middle Ages* (Oxford, 1962), I, 282, note 1).

<sup>5</sup> *Ibid.*, I, 282-283. There is general belief and Baskoff's description of the chancellor's office up to the time of Boniface VIII. On the organization of the cathedral chapter, cf. C. H. Clutton, *The Government of the Church* (Oxford-Cambridge, 1907), pp. 27-8.

<sup>6</sup> The exception was Baskoff, *op. cit.*, I, 284, note 1. To this may be added one made by Alexander III, who took from the master at Orleans jurisdiction over the school of 12 masters, giving it to the abbots of two prominent monasteries, St. John and Beauger, and adding Chartres, 1160-62, *op. cit.*, 1160, cf. note, note 18. Another exception was at Paris, where the University of Paris established under the school of Saint-Victor, cf. R. Cusset, *Die Entstehung der Universitätsorganisation in Frankreich* (Berlin, 1902), pp. 322-323.

<sup>7</sup> Boniface, *op. cit.*, I, pt. 3, can. 18, emphasizes the question of simony and its local nature with reference to the schools.

The impulse to reform came from the new conditions created by the great intellectual movement of the twelfth century. The issue of an Abbot, the new dialectical method, and the revival of interest in all fields of learning resulted in a great increase in the number of those who were eager to learn, and consequently of those who wished to teach.<sup>2</sup> As it became more profitable to teach a greater number of students willing to pay, the number of masters multiplied, making the office of master of schools or chancellor more lucrative. Scholasticism thereby became too glaring to escape attraction from Rome as soon as complaints from the poorer masters or from unsuccessful applicants for the throne reached the Pope.

The more correction of the evil of simony itself was not the only aim of the papacy. There was also the desire to make teaching free in some measure for poor students. At the very beginning of the twelfth century Geoffrey Rabilon, abbot-elect of Angers, told in a sermon that no one should teach for money.<sup>16</sup> Alexander III himself expressed the theory of the Church in advocating gratuitous instruction,<sup>17</sup> and for poor students made at least the study of elementary theology free.<sup>18</sup> Thus, however, as will be seen, Alexander did not effectively carry out the theory, the motive of free education did not have much weight in causing the papacy to interfere in the matter of the license; reform of offices in the Church and centralization of authority in Rome<sup>19</sup> were the main objectives of Alexander's policy.

<sup>3</sup> For the whole manuscript in German see: *Walden. Die Geschichte der Fruchtbarkeit*.

<sup>17</sup> *Exposition, op. cit.*, pp. 11, 102, 103, 104. This happened already in Paris, but outside more or less exact distances along time.

<sup>12</sup> H. Bourdier, *Études et notices de papillons nouveaux* (Paris, 1890-92), 1: 50. "... dire qu'il faut se méfier des affirmations, que souvent une donnée, qui paraît bien établie, est fautive." Chavannes, *Sur l'hétérogénéité*, 1, vol. 174: "Chavannes s'élève, toutefois d'après 1894-1895." *En Mémoire*, 1: 20. 8 vols. 1, 1895.

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■ Cf. J. Lyden, *Edmond et le Poète*, in *Milliers de pages* (Paris, 1989), p. 22.

Whatever the means or the motives involved, Alexander actively undertook the destruction of scholastic slavery. He had a precedent in the decree of the Council of London of 1128, which forbade the practice of selling the permission to teach, but which did not refer to learning as a necessary qualification for the applicant.<sup>14</sup> The energy with which Alexander took up the problem is evidence enough that this decree did not embarrass the masters of the schools. The first letter we have from the Pope against the side of the *litteras* is addressed to the dean and chapter at Châlons-sur-Marne, who had been impeding the liberty of teaching by reactions and by threats of excommunication against masters who taught without their permission.<sup>15</sup> Alexander commanded the chapter to permit all clerics in the diocese and especially outside the walls of the city who wished to instruct others in "scholastic disciplines" to do so freely and without any hindrance.<sup>16</sup> This letter failed to stop the chapter in its customary practice, and another followed in 1171-1172 to the archbishop of Rheims, asking him personally to interfere.<sup>17</sup> In this instance the master of the schools of Châlons had been claiming jurisdiction over the schools of an abbot, refusing to permit any one to teach in them. Alexander would not allow the master to enjoy rights on the basis of the abbot which by a "wicked custom" he enjoyed over the schools in the city itself.<sup>18</sup> In no case was teaching to be subjected to slavery; both the master and the abbot

<sup>14</sup> Lathaldus, ed. 112: "various proposita, et si magister scholarum alio scholae esse hoc veli, licet sit peritus, scholarum disciplinam consequatur." Rashdall, op. cit., I, 272, note 1, suggests "magister" for "apostolus."

<sup>15</sup> The date of the letter is 1169-1170. Lathaldus, ed. 1129; for the text, *Migne*, vi, 246.

<sup>16</sup> *Ibid.*, vi, 246: "... omnimodis volumus ... magister scholarum scholarum magis, quod in apostolica curia, et praesentibus ecclesie universitatibus alio ligari consuevit et per scholarum licentiam disciplinam, et ibidem et alio magis universitatibus ecclesie remanere, sed, nos super hoc scholarum in curia praesentibus, et universitatibus alio ligari et disciplinam alio scholarum." One may note that the Pope wished to encourage more the teachers in the country schools than those of the cathedral school, "praesentibus ecclesie universitatibus" (cf. *ibid.*, note 16).

<sup>17</sup> Lathaldus, ed. 1129 already noted above in Rheims the liberty of learning in 1169-1170.

<sup>18</sup> *Migne*, vi, 246: "Etiam illi magister scholarum Petrus de Wastonia transiens ad aliam universitatem quod magister scholarum Petrus de Wastonia in curia hoc alio scholarum alio scholarum magister scholarum et magister per scholarum in regem scholarum praesentibus ... Transiens hoc alio magister scholarum, alio alio in curia



were strictly forbidden to refuse permission to teach to any worthy and literate man wherever he might elect to open his school.<sup>6</sup> Not only, therefore, was scholasticism always encouraged, but the territorial extent of the authority of the master of schools was restricted by papal intervention in the bishopric.

Local legislation for the schools is found in three other letters of Alexander III. The date (1158-1181) is indeterminate for all of them, but because of their local application I shall analyze them before considering the more general provisions on the subject. Two letters are to Odo, chancellor of the cathedral chapter of Bourges. In the first Alexander confirmed to him the right to grant the license, provided he did not demand a fee from those wanting to teach nor refuse the license to those properly equipped by their learning; but the license should not be given to any one who was too ignorant to instruct others.<sup>12</sup> The letter is of further importance in indicating that the chancellor was beginning to seek papal confirmation for all the rights connected with his office, and was at least in some cases acquiescing in papal interference at the expense of his own and of the chapter's local autonomy. The second letter repeats in general the terms of the first one, adding, however, that the chancellor's permission was not necessary for a canon who wished to lecture to his fellow-canon on the books of the *deals*.<sup>13</sup>

How often a person experiences a shift of focus from others to personal digestion matters.<sup>10</sup> Cf. *Seneca*, *ep.*, 1, 10.

[illegible]

<sup>24</sup> John L. Greenfield, in: LITSA, N. Greenfield, *Charles Darwin's Biographies in Letters* (Lough, 1982), p. 207 to 208: "... individualism, individualism ... directed to maintaining specific, fundamental or personal single individual membership. As his particular personal individualism, we can detect within it the Darwinian idea to place his own family-specific, specific various other members, in terms of all his, up to down and beyond individual, within another person's subject. His specific single individual membership, of an individual family changed in his family of individualism. But all individuals who survive."

<sup>14</sup> In der Gesamtheit von 1000 Gesamtheit (Gesamtheit von 1000) ... publizieren, wenn publiziert also in der Gesamtheit nicht werden, nur drei von hundert (3%) von insgesamt hundert. Insgesamt wird nur verabschiedet, in der von anderen, aber, die drei alle in der Gesamtheit publizieren. Insgesamt wird nicht nur in der Gesamtheit, sondern auch in der Gesamtheit publiziert.



Charleston, was less likely to attract attention to the evil of the role of the teaching profession than were the less prosperous industrial schools.

Because of the prevalence, therefore, of scholasticism among particularly in France, Alexander tried to stop the evil by a decretal to the French bishops. The importance of the decretal lies in its full recognition:

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To all masters of schools in the dioceses of France it was strictly forbidden to demand payment of any kind for conferring the *livre's degree*, which, moreover, should not be refused to any able and learned man desiring to teach in the schools under the supervision of the Church. The chapters

**■** *Illegitimate* – non-authorized or unauthorized.



the letters to particular bishops, remained in effect in France" for all other teachers subject to the master of the schools; it had legally abolished scholasticism in the ecclesiastical educational system then existent. By the decree of 1178 the master of the schools should not sell the license to the new master for the past in each cathedral church.<sup>10</sup>

A review of the provisions on the license decree<sup>11</sup> yields the following conclusions. As regards the chancellor himself and his control of education in the diocese, his old authority over the schools was limited in two respects: he could no longer accept as a gift, and could not demand, a fee for granting the license decree; he must confer the license on any worthy and learned man asking it. On the other hand, he retained, along with the office itself, important rights. He supervised all the schools of the diocese, except certain special ones as noted above, and except those that were purely lay in origin and character, notably in Italy; all ecclesiastical schools, that is, whether the regular cathedral and parochial schools or temporary ones set

<sup>10</sup> In Italy, as I shall point out again, scholasticism which was not sufficiently important to be included in *decretis* II's legislation on the license. England already had its special statute against slavery, that of 1155. Moreover such a special provision for Italy.

<sup>11</sup> *Historia Basilien*, op. cit. I, 398, see *Monasterio*, op. cit. I, 3, n. 79, makes the distinction I have made between the letter to French bishops and the license decree. It represents the part of the letter which dealing with the school the license from the bishop's post concerning a new master in each cathedral church, one is naturally led to apply it universally for all masters in all schools subject to the chancellor.

My interpretation is supported by a gloss to the decretal of 1178 in the *MS*, Vat. lat. 1095, containing the *Compilatio* of Bernard of Borne, fol. 109v:

"*Post* subterrogatio de licentia superius per litteras solenniter compellitur et creditur esse postea per decretum vel decretum licentia potius esse debet. Sed quia decretum de compellitur per decretum licentia vel potius, utrumque licet de collectione vel potius antiqua, utique non non habent licentiam ad hoc depositionem. . . ." The same gloss occurs in the *MS*, Bologna, lat. 102 (the latter are not identical, mentioning Bernard's *Compilatio* here the gloss is by "Bernardus"). The date of these glosses is apparently the second or third fourth of the thirteenth century, after Bernard of Worms' *Epistola* and *Constitutio* antequam. Thus and date Bernard finished, at that time, the *Scholae* de scholasticis studiis and likewise the *Constitutio* de scholasticis, lat. 109, fol. 109v. However, Bernard gave in the full paper version of 1178. Thus in this time glosses incorporate the provision of the decretal Bernard wrote in his on relating to English masters for past students, and not to those still held licenses at Bologna and Paris. Later versions, however, particularly Raymond of Peñafort and Gualtero of Thost, state emphatically that under no circumstances shall a fee be involved in granting the license (*MS*, Vat. lat. 1097A, Bernard of Peñafort, *Summa de iudicio*, lib. I, de *Episcopis*, fol. 130, *MS*, Vat. lat. 10980, Bernard Gualtero de *Summa de iudicio*, lib. 1, de *Episcopis*, fol. 130).

up by masters anywhere<sup>20</sup> in the diocese for profit from whatever students their personal reasons for learning could attract. In all these schools he appointed the teachers by conferring the license. What is more important, the chancellor had the right to judge the fitness of the applicant, to grant him the license, without having to consult his master on his scholastic record: the masters did not yet always pass on the qualification of the candidates.<sup>21</sup> His power, then, was more than that of a mere superintendent of education,<sup>22</sup> more than that of an official who, because already existing, was used to represent papal authority in the schools by the simple act of ecclesiastical investiture. Yet he was no longer a local official of the cathedral chapter; the first step was taken by Alexander III in the development which in the first half of the thirteenth century was to make the chancellor a papal official, conferring the license to teach in the name of the Pope.<sup>23</sup> Alexander's interference in the matter of scholastic discipline was the real beginning of active control of the teaching organization by the papacy, if only as a precedent.

Three types of schools were affected by the legislation of Alexander, cathedral, parochial, and schools of masters who lectured to students on the opportunity offered. All had one thing in common, an official, called chancellor or master scholarum, who conferred the license to teach, and all to that extent were ecclesiastical. The cathedral and parish schools were regular in the sense of having been established by ecclesiastical authority; those of masters teaching elsewhere than in the regular episcopal schools were irregular in the sense of having been opened on the personal initiative of masters eager to

<sup>20</sup> Cf. *conc. rom.* III, "in scholis, vel scholasticis, vel scholasticis"; *conc. III*, "in scholis vel scholasticis"; *conc. III*, "in scholis vel scholasticis"; the latter in French Bishops does not repeat the phrase, but the inference is that a master could set up schools anywhere he wished. There is an example: the master themselves had elected to teach, and the cathedral master the cathedral the chancellor, the masterly did not teach in the cathedral school mentioned concerning with it only, to the cathedral official, the chancellor. The University developed partly out of it, but more in this connection with the cathedral school which, however, was the original nucleus.

<sup>21</sup> Cf. *Beaune, Les Universités de l'Université*, p. 104, for Paris.

<sup>22</sup> A phrase used by Bachelard, *op. cit.* I, 100; Bachelard does not sufficiently emphasize the importance of the right left to the chancellor to judge the fitness of the candidate for teaching.

<sup>23</sup> Cf. *Beaune, op. cit.*, p. 105, and note 104, the same page.

teach. Such masters, licensed by the chancellor, naturally chose to open their lecture rooms in places offering the advantages, material and intellectual, which attracted large numbers of students. Thus an University arose from the mere expansion of a cathedral school proper into a *Studium Generale*, but rather from the concentration of a large number of masters and students whose conditions favored them, it is precisely in relation to the independent masters that the legislation on the license to teach affected, if at all, the development of the university system. In that way alone, as will be explained, could Alexander's reform of the office of chancellor advance or retard the movement towards the formation of a corporation of masters or of students. His intention was not to encourage such a movement, which was probably not even seen for what it was; his activity against scholasticism was rather a phase of the destruction of the feudal system in the Church than an effort to erect a new school system. But not the intention so much as what actually resulted from the papal policy is of interest here. What part, therefore, did Alexander's control of the chancellor actually play in the rise of the Universities? The answer depends upon the relation of the master to ecclesiastical authority in each center of learning which became a University.

If no Universities as Corporations or Societies of Masters and Students yet existed in the twelfth century, the most famous ones of the Middle Ages, Bologna and Paris, were in the process of formation and were already international centers of learning. Montpellier and Oxford had their origin in the same century, Salerno even earlier. All of them developed spontaneously, without being launched by any authority, civil or ecclesiastical; but in the course of their construction, with the exception of Salerno, they encountered papal intervention and control in varying degrees. For each school, the essential point to be considered in relation to the papacy is the admission to the guild of masters or professors, for the development of the society of masters is fundamental even at Bologna, where the student body developed into the University.<sup>22</sup>

<sup>22</sup> Cf. Baskin, *op. cit.*, p. 176.

At Bologna, however, there was no ecclesiastical authority which granted the license to teach in the twelfth century, although license fees paid by students and masters were an excuse for regulation by Clement III in 1188.<sup>22</sup> The masters or Doctors of Law conducted the examination of the candidates and conferred the license. Not until 1216 did Honorius III give to the Archdeacon the right to grant the license to teach in the name of the Church.<sup>23</sup> Alexander III's limitation of the chancellor's scholarly rights had therefore nothing to do with the formation of the guild of masters or professors at Bologna. But at least his regulation of the French chancellor-system of conferring the *licentia docendi* was a precedent for Honorius III in bringing the Law School of Bologna within the papal system for controlling education. Then, however, the University was already formed as a guild of students. In the twelfth century, indeed, the schools of Bologna and generally of Italy were lay in character.<sup>24</sup>

As late as 1184 no definite organization of masters had then in the School of Medicine at Montpellier, and neither the bishop of Magalhens, who claimed jurisdiction over the school, nor the masters possessed unqualifiedly the right of granting the license.<sup>25</sup> In fact, it was a lay lord, William VIII of Montpellier, who first provided for the liberty of teaching, saying that the Faculty of Medicine should not be monopolized by one person.<sup>26</sup> That he was loyal to the papacy, and was perhaps influenced by Alexander's legislation for the free license to any learned man seeking it, does not lessen the fact that his authority was not ecclesiastical, and that the prohibition did not come from the bishop of Magalhens or the Pope.<sup>27</sup> No ecclesiastical official, apparently, conferred the license, and the

<sup>22</sup> Hefeling, *Carac. Inst. Canon. II*, *Decret. Greg. IX*, lib. II, tit. xviii, cap. 1.

<sup>23</sup> Cf. *Manuale*, op. cit., p. 282; *Reichsh. op. cit.*, I, 188, note 3, and p. 283. *Thom. and Fritsch*, *Recherches historiques*, *Institutions universitaires*, non citées by *Manuale* and *Reichsh.* *Manuale*, 1888-90, II, 14-15, cited, *Reichsh.*

<sup>24</sup> *Reichsh.*, op. cit., I, 181 ff.; *Reichsh.*, op. cit., p. 181.

<sup>25</sup> *Reichsh.*, II, 1, p. 136.

<sup>26</sup> *Les masters et professeurs des universités françaises depuis leur institution jusqu'en 1289*, ed. M. Fournier (Paris, 1888-92), I, 4, no. 136.

<sup>27</sup> *Reichsh.*, op. cit., p. 9, and *Reichsh.*, op. cit., II, 3, p. 284, point out the relation of William VIII with the papacy, but not the difference between their policies.



control of the chancellor or magister scholarem by Alexander III did not in the twelfth century apply to the situation at Montpellier. But by 1199 the bishop rendered the license, and by the Statutes of that year a chancellor was appointed to preside over the University.<sup>10</sup> Indirectly, perhaps, by influencing William VIII, Alexander's control of the chancellor in France, making the license free, was a factor at Montpellier in favoring the multiplication of the masters and consequently their autonomy; masters, however, had a habit of multiplying in spite of fees paid to an official appointing them, a habit which Fauré will illustrate. The essential point which makes the provision of William VIII more favorable to the masters than papal doctors now or later, is the ruling that no one should have exclusive control of the Faculty of Medicine, and that any man, whatever his rank, who so desired could freely teach at Montpellier.<sup>11</sup> No official is named who should grant the license, or determine the fitness of the candidate. Alexander aimed at making papal authority felt in the schools, and left an ecclesiastic official in charge of them who, if he could not make his office a source of profit, retained a good measure of control over masters and students through his right to examine the candidate before he rendered the license. Surely William VIII of Montpellier pursued a far more liberal policy, for he imposed no limitation whatever on the masters. But his policy had no permanence, for in the next century the bishop, hence the

<sup>10</sup> *Neurobiol. exp. appl.* 63, 1–2, p. 115 (1992).

[illegible]

Church, acquired jurisdiction over the University, and it was then that Alexander's legislation had its effect in furnishing the precedent for papal control.<sup>16</sup>

As in the cases of Bologna and Montpellier, Oxford was not a cathedral school in its origin, which may be dated about 1150.<sup>17</sup> Until 1154 there was no chancellor, and the bishop of Lincoln had only general ecclesiastical supervision over the students. The masters in the early period taught without a license from a special official of the Church, a situation ended by papal regulation in the thirteenth century.<sup>18</sup> Again like Bologna and Montpellier, Oxford did not develop as a society of masters under the jurisdiction of an ecclesiastical official who conferred the license; that official was provided by the papacy after the essential formation of the masters into a guild, in order to establish papal authority over the University. Alexander III's scholastic legislation was not a factor in the rise of Bologna, Montpellier, and Oxford; nor, of course, in the rise or history of Salerno.<sup>19</sup>

Paris alone of the universities which arose in the twelfth century presented the conditions which called forth papal regulation of all episcopal schools. By the middle of the century a considerable number of masters was teaching in the neighborhood of the cathedral under the jurisdiction of the chancellor of Notre-Dame, who by custom collected fees for giving them the permission to teach, and could appoint whom he pleased. So long, possibly, as the candidate was willing to pay, the chancellor did not make the question of license, nor prevent the master from teaching anywhere he wished in the parts of the city and diocese under the chancellor's supervision. When conditions were favorable, as certainly they were at this time in Paris, owing to the impetus given to the dialectical and theological movements by Abelard, and to the physical advantages of geographical position and the delights offered to students by the city, students and masters multiplied

<sup>16</sup> *EEC*, *op. cit.*, I, I, p. 145.

<sup>17</sup> *EEC*, I, I, p. 156.

<sup>18</sup> *EEC*, I, I, pp. 156 ff.

<sup>19</sup> *EEC*, I, chap. II, for the history of Salerno.

in spite of the fee demanded by the chancellor, and by 1140 Paris was already a "city of teachers."<sup>12</sup> By the time of Alexander III, then, the germ of the university organization in the right of the chancellor to confer the license to teach, soon confirmed by the Pope, and in the still vaguely formed guild of masters, was in evidence at Paris.<sup>13</sup>

The legal relation between the chancellor and the masters, or those applying for the degree of master, was changed by Alexander in that henceforth the chancellor was to confer the license on any learned man to teach anywhere he might choose, and was to have the right to judge the fitness of the candidate, but in no case was to demand any kind of payment for the license. What was the effect of these provisions on the development of the University of Paris?

Considering the right of the competent candidate to the license, at first one sees in this right an obvious advantage for the teachers if the chancellor ever wished seriously to limit their number, for that official would hardly dare often,<sup>14</sup> against express injunctions from Rome, withhold the license from a man known to be learned. But at Paris the chancellor had no reason for reducing the number of the masters, seeing that he perhaps continued, by special dispensation, to profit personally from a fee. This profit might have the effect of making any normal chancellor license as many teachers as possible. In any case, the Pope's decree that all properly qualified men should be allowed to teach was at least an indirect check on a possible attempt by the chancellor to limit the number of masters, for the chancellor still had the right to judge the fitness of the candidate for the license; he could even give the permission to teach without having consulted a master on the qualification of the candidate, and could refuse it to a candidate recommended

<sup>12</sup> Cf. Haskins, *op. cit.* I, 399 cf. John of Salisbury's description, *Philosophy and Theology*, I, passim, esp. 14.

<sup>13</sup> Cf. Haskins, *op. cit.* p. 398.

<sup>14</sup> At Paris, master of the school of Ardenne did in defiance of papal decree a certain Master B. to teach even after receiving papal permission to give the permission; Paris asserted that Master B. was not suitable for teaching and expelled of France, supported by the Pope to examine the case, without the master of the school either to deny or to prove the suitability of Master B. See the letter of Stephen to Philip August, vol. 994, dated 1177-1181.

by his master.<sup>10</sup> It was perhaps customary even before the pontificate of Alexander III for a master to approve of the candidate,<sup>11</sup> but as late as 1112 a chancellor was refusing the license, against the evidence of learning furnished by the masters, to those who would not pay the provision.<sup>12</sup> The customary right of the masters to examine and pass the candidate before the chancellor could confer the license was not legislated by the papacy until the same and the following years, when the masters were powerful enough, through having organised, to protest effectively against the actions of the chancellor.<sup>13</sup> What right of examination the masters had in the twelfth century they had by custom, not by special privilege from Alexander III. If anybody, it was the chancellor who could claim a papal privilege in the clause from the decretal *Quanto Gallicana*, "*et quicumque visum fuerit et licentia scholarum rigore stola litterarum*,"<sup>14</sup> should be, like the master of the schools of Orleans, wick to turn it to his advantage, and thus try to limit the number of masters.

Did the provision, in specifying a certain amount of learning for the candidate, improve the quality of the teachers at Paris? If so, it was a benefit to the masters themselves in tending to increase their prestige, and a gain for education. But the evidence is that the result was not altogether in that direction, even if Alexander so intended it. Stephen of Tournai's letter to a Pope towards the end of the century, or at the beginning of the next, shows that, from his point of view, too great a number of young and insufficiently instructed masters was teaching at

<sup>10</sup> On the privilege of the chancellor of this time, see Bédarride, *Chartrier de la Sorbonne*, pp. 282 ff.; *Chartrier de la Sorbonne* (Paris, 1, pass. internat.), pp. 24-25.

<sup>11</sup> *Quidam* was considered by the Council of Sens as the besting person to before without the approval of a master (C. de Sens, *Statuta Universitatis parisiensis*, . . . (Paris, 1907-10), 2, 96, cf. Bédarride, *op. cit.*, 1, 261).

<sup>12</sup> *Chartrier de la Sorbonne* (Paris, 1, pt. 2, no. 10).

<sup>13</sup> Cf. Bédarride, *Chartrier de la Sorbonne* (Paris, 1, pass. internat.), p. 275-282, 1, pt. 1, no. 52. The agreement between the chancellor and the masters (the chancellor gave up his position of collecting fees, requiring an oath of fidelity, and leaving a place for the masters to elect one when the license to teach in theology, in 1112 or 1113, was lost, to Bédarride, as in the Act of the candidate's license passed by the masters of the faculty (his term "*sanctus*" does not appear, however, until 1212 in letters of Innocent III, *ibid.*, 1, pt. 1, nos. 89, 91). But if the chancellor Adamus de Vaulxville wished to give the license to anyone, he could do so without the consent of the masters. The masters did not obtain charter control of the license in 1215.

<sup>14</sup> *Ibid.*, 1, pass. internat., nos. 4, 5, 1961, p. 21.

Paris.<sup>12</sup> Innocent III, perhaps aroused to action by Stephen's example, reduced the danger to the efficiency of teaching from a multitude of untrained masters, and limited the number of masters in the Faculty of Theology to eight,<sup>13</sup> a policy followed like the other Faculties in later years. The chancellor, then, was not too zealous in restricting the license to properly qualified applicants. Any other result could hardly be expected when the masters of each faculty did not themselves have the full right of examination and of making their decision valid over any opposition from the chancellor. It must be said, however, that it made little difference in improving the intellectual level of the masters as a whole in the twelfth century whether it was chancellor or masters who examined; the amount of learning required was at best comparatively small for the degree of Master of Arts, owing to the triumph of Discretio over the Liberal Arts, and the number of the latter in the rank for degrees.<sup>14</sup> What is

<sup>12</sup> *Decretum Gratiani*, *Charlottenburg Univ. Paris*, I, part. I, tit. 20, c. 11: "... licentiam quam Magistri applicant contra Magistros petitis, in tantum necessitas dispensationis, et non tantum utilitas contra Magistros impetitoris impedit, sed et in talibus actionibus veluti in talibus, et qui magistri non sunt et de ipsius licentia et non licentia magistri." ...

<sup>13</sup> Cf. the following canon from the *Concordia Canonum*, ed. F. A. Schaeffer, 2nd ed. (Chicago, 1905), p. 46:

in nova doctrina parum  
 doctrinae fides: licet  
 in nova doctrina licentiam  
 non oportet impedire.

Cf. also E. de Mâch, *Public population in Europe 1100-1200* (Paris, 1887), p. 100:

non tunc negantur licentiae	non tunc negantur
qui magistri quidem parum	per magistros licentiam
in nova doctrina	quod contra licentiam
licentiam non oportet	in actione, et non
non tunc non oportet non tunc	negantur licentiae
magistri non tunc	non, licentiam quidem.

The date of this poem is uncertain, that of the canon from the *Concordia Canonum* about the second half of the twelfth century. Cf. Schaeffer, op. cit., I, 101, who notes that canon and suggests substituting "et" for "et" in "et non" (100, note 1).

The point of view is made all the more for the exaggeration of the importance of the *Summa* of Gratian, *Summa* of Gratian, and *Summa* of Gratian. They often called that *Summa* which was not their own, that of Gratian, they opposed the triumph of *Summa* over *Summa* and *Summa*, and its popularity in the region of *Summa*. Yet *Summa* seems to have led to much *Summa* perfection, in a still to high which needed for *Summa* *Summa* *Summa* a *Summa*. For a warning against accepting the *Summa* for *Summa*, see F. de Vaux, *Summa* *Summa* (Paris, 1905), pp. 11, 12, 13.

<sup>14</sup> *Charlottenburg Univ. Paris*, I, pt. I, no. 2 (no. 187).

<sup>15</sup> Schaeffer, op. cit., I, 101.

important, the number of teachers increased, and number more than quality was essential in enabling the masters to form a corporation.<sup>19</sup> The lack of proper examination of the candidates for the degree and the low standard of requirements, together with the promise to the ambitious of ecclesiastical dignities and benefices, fostered the multiplication of the masters. In brief, Alexander's regulation of the chancellor-*licentia* system of education in France with respect to the qualification of learning did not affect, either by retarding or by hastening, the rise of the Society of Masters.

As for the provision against the practice of simony by the chancellor, this was an advantage for the teachers and an encouragement for their position. If enforced, it removed a serious obstacle to candidates who were poor, though meritorious. A direct result at Paris, one might expect, would be an increase in the number of masters and a more speedy organization into a guild. The decretal of 1170-1174 was not, however, strictly applied at Paris. Perhaps from the time when Richard attracted a large number of students to Paris, and the teachers consequently became more numerous, simony made the office of chancellor profitable and became customary. The chancellor just before 1170 collected fees from the candidates for the *licentia*,<sup>20</sup> but how long he had been doing so it is impossible to say. In a center of learning as prosperous as that of Paris he found it difficult to give up a right which, if not suggested, no one could find abusive among teachers who themselves sold learning in that they were paid by their students.<sup>21</sup> When it happened that a famous scholar was chancellor, Alexander III perhaps found it the wiser to understand that at least at Paris he should have some material reward for his office, and in 1174 Alexander apparently conceded to Peter Comestor, chancellor from about 1166 to 1176, the right to moderate fees for conferring the *licentia* to teach.

<sup>19</sup> *Decretals*, op. cit., I, 109, the term "universitas" appears first about 1159-1161.

<sup>20</sup> *Decretals*, op. cit., III.

<sup>21</sup> Only the master's staff collected chancellor-poor students, provided by the Comestor 1174, was enabled to dispose with freedom his pupils. In thirteenth-century Raymond de Montcaumon stated that a master would accept payment from wealthy students and bachelors of *licentia*, op. cit., I, I, pp. 38-9. "Teaching was not free at Paris for the students, e.g., the work of Stephen of Thonnet against the 'university' made numerous articles," *Chanceleries Paris, Paris, 1150-1180*, no. 40 (1174-84).

" Alexander . . . *Abbas-Els Petre* [that most Christian] *pastores* *indivisi*, *apostolice sedis legati* . . . *Uost mandavimus ut si qui volent docere tibi per nosse regenda ab aliquo exigant, [sic] Abas Petre et alii volentes tamen honesti et litterature magistri Priores, conventus Parochiales, quantum ad ea honeste possint, prompte benignitate defere, quoniam specialis prerogativa dilectionis et sollicitudinis honorum, concessit tunc mandantes quoniam, habito consilio cum venerabilibus nostris Willielmo Beccanensi archiepiscopo, apostolice sedis legato, et H. Beccanensi archiepiscopo, et alio dignis et honestis personis, super regimine ecclesiarum Parochialium, quod tibi videri fuerit, sic quod possint [sic] dicti Petri non excedat quod videri fuerit, circumspiciat diligenter providere aliquid disponat, cum rationibus et moderatissime subducatur, quod non volentes modum excedere, et illi qui videri fuerit, non debent immediate perire."*

In 1112, as we have seen,<sup>12</sup> a chancellor met opposition from the organized masters when he was trying to exact the fee for the *sententia decreti*; this time Innocent III definitely deprived the chancellor of this privilege, as well as of others.<sup>13</sup> Whether a chancellor between the years 1178, perhaps the last of Peter Comestor's chancellorship,<sup>14</sup> and 1179 was paid a fee by the

<sup>12</sup>Chancellor (Paris, Paris, 1, parchment, no. 8. The Pope's intention is not very clear. He had ordered that those who wished to teach should exact nothing from any one but studying schools, "*per nosse regenda*" [sic] "*ab aliquo*" who is the *maître*?" If so the answer would mean only that the masters should not accept fees from their pupils, though the phrase "*per nosse regenda*" is difficult to translate without a meaning. I find, however, no trace of a medieval document prohibiting masters to pay fees to teachers, and the Third Lateran Council enabled only the poor students to exempt the teachers of houses in the cathedral schools. The Pope would hardly threaten to withdraw such a prohibition in his words, "*Uost mandavimus, etc.*" To what does he refer? I think it is to the *sententia Bullarum*, which, as you observe, prohibited the payment of fees for the license to teach. Now, while Peter Comestor, as Chancellor of the University of Paris, was also probably a teacher, it seems strange that he alone was permitted to collect fees from his students if other teachers were not allowed to do the same. But the teachers at Paris had not been forbidden their students fees. The later canon law seems to apply to Peter as Chancellor, not as a Master. For the rest, although it is not expressly stated that Peter could receive payment from students for the license, the substance of the letter seems to point that way: that the universities previous thereto on fees, probably the *sententia Bullarum*, generally, the suspension of license for the teaching of Peter Comestor, finally the steps of the steps but suggestions of the which should not diverge from the pattern and type of the Chancellors and teachers, the intention that by such a suspension of the chancellor's right respect to the Chancellor's rights, the teachers were not to be immediately opposed, "*et illi qui videri fuerit, non debent immediate perire.*" Cf. *Recherches*, 1, 189, note 8.

<sup>13</sup>*Chart. Univ. Paris*, 1, pt. 1, nos. 14 and 15, cf. note 16.

<sup>14</sup>*Ibid.*, 1, pt. 1, nos. 14 and 15.

<sup>15</sup>Cf. *Ibid.*, 1, part 1, pt. 1, note 1, for the date.

license is uncertain.<sup>62</sup> An answer one way or the other is of small importance, for by 1179 there was a vague expectation,<sup>63</sup> and the masters had already multiplied sufficiently at Paris to form a society and develop corporate grievances. They do not seem to have protested the special privilege given to Peter Comestor, and in 1182 they had more than the one complaint of fees for the license to make. The essentially formative years of the guild of masters and of the University, the middle decades of the twelfth century, from as early at least as 1140 to about 1178, coincided with the very period during which — excepting possibly four years, 1179-1174 — the chancellor of Notre-Dame received a payment from those who desired to teach. The fee was thus no obstacle to the growth of the University, above all when the masters themselves profited from teaching and could very well afford to pay for their position. If Alexander had effectively forbidden it at Paris the organization of the masters could hardly have been hastened; but precisely at Paris he did not strictly enforce the rule, and left to the chancellor most of his other old rights besides, including the important one of judging the fitness of the applicant for the license. Rather than encouraging and hastening the growth of the Society of Masters, Alexander, perhaps unintentionally, by his legislation on scholastic discipline would have, other things being equal, retarded the development. But the movements of the century were more powerful than papal decrees, and the intellectual renaissance, whatever its causes, resulted in the concentration of masters and students at Paris in spite of fees for the license and lack of statutes for examinations. The masters were already a *de facto* corporation when they obtained positive privileges from the papacy in the thirteenth century.

It is possible now to consider the conclusions to which the scholastic legislation of Alexander III led Raskinell.<sup>64</sup> "The control of the Chancellor on the one hand, and the right of the

<sup>62</sup> Innocent III. in decretals of 1191 (*Christiana Univ. Paris*, I pt. 3, no. 18), says that the abuse of the chancellor's office which he wishes to correct, did not arise when he was a student at Paris, so that the chancellor did not then need a fee. On Innocent III. as a student at Paris, cf. A. Luchaire, *Journal de la vie de l'école de Paris*, 1875, p. 11.

<sup>63</sup> Cf. *ibid.*, note 18.

<sup>64</sup> *Op. cit.*, I, 181.



compulsory teacher to a gratuitous license on the other, formed the basis of the French educational system. The control of the Chancellor distinguished it from the early Italian systems without the corresponding right, a University of Masters could never have grown up at all. The right to the license once established, there was nothing to prevent the multiplication of masters in connection with any famous church-school." As we have seen, at Paris the chancellor indeed had control over the schools and masters; and the masters had the right to the license, but not a full right, since the chancellor passed on the fitness of the candidate. Moreover, the license was probably not gratuitous before 1178, possibly not before the beginning of the thirteenth century. The teachers in all ecclesiastical schools of France had the legal right after 1170-1171 to a free license; but at Paris the chancellor, or at least one chancellor, Peter Comestor, had, if my reading of Alexander's letter is correct, the equally legal right to demand his prebend. Thus of these two elements, chancellor-control and the right of the teacher to a gratuitous license, which were the basis of the French educational system, only one, the former, was part of the system at Paris during the formative period of the Society of Masters. Against Rothschil's statement, therefore, that without the right to a gratuitous license "a University of Masters could never have grown up at all," stands the evidence that a University of Masters did grow up at Paris without the right to a free license, and also without the right of forcing the chancellor to accept their examination and of passing the candidate before the license was conferred. The masters of the various sciences were already a *de facto* University when in 1114 and later, supported by the papacy, they finally wrested these prerogatives from the chancellor. Even before Alexander III provided them with the half-privilege of obtaining the license if they were competent, they had multiplied at Paris; there was no serious obstacle to their multiplication. In a word, the teachers at Paris developed into an organization, into the University of Masters, without privileges, in spite of minor hindrances such as fees and the qualification of competency, as a result of the advantages offered by the city and of the intel-

trial and guild movements of the twelfth century. In his regulation of the *litteris decernit* Alexander III did not directly influence, either adversely or favourably, the rise of the University.<sup>20</sup>

In the constitutional history of some of the centres of learning which developed into Universities at the end of the twelfth century, Bologna, Montpellier, Oxford, and Paris, did Alexander play an important part. His legislation had no application whatever at Bologna and Oxford, and only very indirectly, if at all, at Montpellier. It related to Paris only in so far as the schools were episcopal, that is, under the official of the cathedral chapter, the chancellor. Alexander did not, like the popes of the thirteenth century, have a university consciousness. His legislation aimed at stopping feudal practices in the Church, at restricting papal authority. It purposed also to encourage learning by helping the teachers in episcopal schools, but not, in practice, those in great centres of learning. The prohibition of scholastic dress was enforced locally, at less important centres of learning, at Chiffons, Bourges, or Winchester, but not at Paris. The importance of Alexander's control of the chancellor lies in its effect as a precedent on papal regulation of the University in the thirteenth century; the chancellor, obliged by Alexander to accept papal interference in his superintendency of the schools, became the representative of the papacy in the University, a development, however, which was completed

<sup>20</sup> Any direct influence on the growth of the universities a *litteris decernit* must be sought in Alexander's encouragement of student unions by granting dispensations from the students' obligation, e.g. at Modena and Bari (cf. *Index Leonianus*, nos. 17121 and 17170), of several students of Paris, above papal protection as students (cf. *ibid.*, nos. 17122, 17123, 17124, 17170, 17171, 17172, 17173, 17174), of certain masters teaching, e.g. Gerard Paris, to have a licentiate as long as he was teaching (*ibid.*, no. 17125), because of their bearing as lay political persons, of certain masters by giving them licentiate, e.g. David of London (cf. *Index Leonianus*, nos. 17174, 17175, 17177, 17178, 17179, 17180, 17181, no. 182, *ibid.*, *Epistolae Leonianae*, ed. P. Lehmann, Florence, 1870, pp. 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000).

after the Masters and Students had organized. The cathedral schools — with the sole and qualified exception of Paris, which, however, by 1190 was no longer one of the local type — did not become universities; those centers of learning which had their origin in the twelfth century and became Universities developed out of natural conditions of the time which were too strong to be greatly affected by the desires of Alexander III.

GAINES POST



## THE CANONIZATION OF OPPOSITION TO THE KING IN ANGEVIN ENGLAND

In 1115 the leader of the baronial army, Robert Fitzwalter, "styled himself proudly and grandiloquently 'Marshal of the army of God and Holy Church.'"<sup>1</sup> While the human conceit that God fights on the side of the speaker is widespread and by no means confined to the thirteenth century, the basis for such an assertion is often worth seeking. In this case others who favored the anti-royal side believed the same. Thus the chronicler of Melrose stated,<sup>2</sup>

It ought to be known that no one in his right mind ought to condemn Simon, his Mother(s) or call him by the name of traitor. For he was not a traitor but a most devoted adherent and faithful partner of the Church of God in England, a shield and defender of the Kingdom of England.

In the Song of Lewes much the same feeling of divine approval of the anti-royal forces appears:<sup>3</sup>

Virtute militumque maximeque reuerentia  
Radixque virtutum super hoc agnosce;  
Cum deus reuelat sanctis hominibus,  
Multa virtutis norma potenter.  
Dei sapientia, regem totum mundum,  
Faci mirabilia bellumque iudicium;  
Fides hoc fides, vincit virtute  
In clauis et clauis, hoc quique iustis.

The whole poem betrays a spirit of "moderate and deeply moral and religious feeling" which was truly remarkable in the moment of triumph.<sup>4</sup> This attitude should probably be remembered along with the noteworthy series of contemporary anti-royal leaders who were honored, partially at least, as saints.

<sup>1</sup> W. A. McKelvie, *Pages into Knights*, 1936, p. 58.

<sup>2</sup> Quoted by J. G. Ballard in the introduction to *The Chronicle of Walter de Melrose* (London, 1895; Camden Society), ii, 100.

<sup>3</sup> *The Political Song of England, from the reign of John to that of Edward I.*, ed. Thomas Wright (London, 1885; Camden Society), p. 78.

<sup>4</sup> *Ibid.*, p. 78.

The first and greatest of these saints was Thomas Becket. So great was his fame that it has tended to obscure the remarkable group of men who followed him. Hugh of Lincoln, Edmund Rich, and Thomas of Cantilupe were all rather notable and were actually enrolled among the saints. Stephen Langton, Robert Grosseteste, and Robert Winchelsey might well have been saints; they were good men as well as able scholars and political leaders. To their number may be added Simon de Montfort and Thomas of Lancaster, both laymen. These men provided much of the most effective leadership against the king, and their acts have become a part of every account of the constitutional history of the period. However, they also seem to have given a particular type of leadership to their followers which produced a remarkable *esprit de corps*. Part of this was probably based upon the careers of these men, part upon their characters: both had a strong appeal for the English people. Because it was apparently in large measure the political side of the careers of these men which led the English people to give them the honors of sainthood popularly, we may call them political saints.

The tremendous response of the English to the martyrdom of Thomas Becket was not wholly religious. The Archbishop was vain, rather overbearing, self-confident; in general, not a likable type of feudal prelate. His type usually attracted rather unfavorable comment in the late twelfth century. Even his uncomfortable undergarments and violent death, protecting the privileges of the Church, cannot explain all of his popularity. The political situation seems to have been partly responsible. By 1170 Henry II had reduced the baronage to order and was taking back many of the privileges which the Church had assumed in the troubled times of Stephen. The regular and effective collection of revenue made Henry's efficient administration distasteful to many who were already beginning to forget the evils of his government. The rising baronage found that Henry was close to great civil privileges. Many classes of Englishmen were thus willing if not actually anxious to divine some check upon the ever more powerful king. By his resistance and death Becket stayed the royal advance. The king's penance at the martyr's tomb was such as any English-

man could understand. In the person of Becket resistance to the king had been canalized.

Saint Thomas Becket had a singularly wide appeal. The Church did not forget that he had been Archbishop of Canterbury. In the time of Henry III, when the clergy threatened with excommunication those who would violate the charters of English liberties, they did it.

*Auctoritate Dei patris omnipotentis illi et spiritui sancto et glorioso Dei generis Mariæ et beatorum Apostolorum Petri et Pauli martimque Apostolorum beati Thomæ Archiepiscopi Martiris omniumque sanctorum beati Edwardi Regis Angliæ cuiusque conditoris atque regis Angliæ et omnium sanctorum...*<sup>2</sup>

An Archbishop, also, he had been a feudal baron and had sat in court among the most powerful in the land. Since the baronial kind was all too frequently a successful revolt, it is not surprising that the language should regard with fever a fellow-member who had defied the king as successfully as St. Thomas. Becket also possessed an appeal for the boroughs, for he was a Londoner by birth. Matthew Paris tells of the dream of a priest in 1143. The priest saw the martyr destroying the newly built walls of London and allege that these walls had been raised in contumacious or prejudicial Londonisation.<sup>3</sup> Thus in the recreation of St. Thomas Becket there existed an element of unity among three important classes of the kingdom. He remained the most popular English saint for centuries.

Next to Becket in time and apparently in popularity as a saint was Hugh of Avalon, Bishop of Lincoln. Gentle of character, loving a joke, shrewd in his ecclesiastical labors, and wide in his sympathies, many knew him as a friend. The Jews recalled his passing as that of one who protected them during the crowding hysteria of 1190-1195. He stood up manfully for what he considered his rights against both Henry II and Richard. In the latter case he risked the protest of a considerable portion of England, and the king backed down.<sup>4</sup> Like Becket, Hugh of Lincoln stands out as a successful rebel against

<sup>2</sup> *Statuta et Scripta*, ed. G. Ruffhead (London, 1790-95), I, 48.

<sup>3</sup> *Chronica Majora*, ed. H. R. Luard (London, 1911-22, Rolls Series), IV, 125-26.

<sup>4</sup> J. H. Round, *Feudal England* (London, 1895), pp. 285 ff.

royal power. It was fitting that he was canonized in 1191 in the year of the great translation ceremony of St. Thomas by a third member of this group, Stephen Langton.

With Stephen Langton have been associated the maneuvers which led to Magna Carta, one of the greatest of charters upon English royalty. Langton was an all-round character — scholar, rebel, administrator — and in all of these capacities he had notable success. It is needless to sketch his career, but it should be pointed out that he was eligible for canonization both on account of his character and of the miracles which followed his death.<sup>1</sup> He probably failed of canonization because King John had drawn him into a position of hostility to Innocent III. Langton continued the tradition of anti-royal leadership by the Archbishop of Canterbury.

In this he was followed by Edmund of Abington who was of a very ascetic and contemplative nature. Archbishop Edmund was hardly the man to act as a political leader in thirteenth-century England: he had not the vigor and practical skill of a Langton. Had he continued to act as a leader throughout his life, he might have endangered the tradition of effective leadership against the king on the part of the Archbishops. Fortunately he elected to retire to Pontigny as Becket had done. This act fulfilled a prophecy attributed to St. Thomas<sup>2</sup> and probably strengthened the belief of many in the righteousness of the anti-royal forces. Like Becket also, St. Edmund was entered into the calendar of saints rather quickly.<sup>3</sup> With St. Edmund may be considered Thomas Cantelupo, Bishop of Hereford. Among the most likable of English prelates, he shared in the political controversy of his time, generally against the king, until he finally withdrew to France. Although never an outstanding leader he bore a creditable name as a politician, and in his canonization he is at least partially a political saint.<sup>4</sup>

<sup>1</sup> *The Dictionary of National Biography* under his name. In this study "miracles" means not the actual accomplishment of supernatural acts but supernatural forces as manifested. This is an arbitrary definition but the qualifications of a canon's testimony might prove to be an element of complication and confusion in a study where the important fact is the belief, rather than the act itself.

<sup>2</sup> Matthew Paris, *Chronica Majora*, IV, 74, 80B.

<sup>3</sup> For a list of thirteenth-century Thomas shrines, see *Thomas Shrines, Sanctified Sites*, etc. (London, 1891), II, 177-180.

<sup>4</sup> *Ibid.*, pp. 177-180.



A leader moulding Langton in many ways appeared in Robert Grosseteste, Bishop of Lincoln. Always a great scholar, he undertook the cure of the vast diocese of Lincoln with such energy that he appeared terrible to clergy and laymen. Such a robust character could hardly have been other than a leader in the anti-royal forces of England. His resistance of papal claims upon the English Church apparently prevented his reconciliation, although it was favored by powerful parties.<sup>12</sup> His tomb in Lincoln Cathedral, near that of St. Hugh, became famous for the many miracles occurring there.<sup>13</sup>

In Richanger's chronicle there is an interesting account of Grosseteste's relations with Simon de Montfort. The Bishop was tutor to de Montfort's children and correspondent with members of the family. Parallel to Becket's prophecy for Edward of Abington comes Grosseteste's reputed prophecy for the Montforts. Putting his hand upon the head of de Montfort's eldest son, the Bishop is alleged to have said, according to the chronicler, Richanger:<sup>14</sup> "O my dearest son, both you and your father will die upon the same day and in the same way for the name of justice."<sup>15</sup>

Simon de Montfort was the greatest of the anti-royal leaders and his administration of the government marked the height of anti-royal organization in the thirteenth century. His appealing personality and sincerity made him an almost ideal incarnation of anti-royal feeling. It is not surprising that writers liked to recall his close association with Bishop Grosseteste. He was hardly dead before miracles were performed at his tomb.<sup>16</sup> Richanger tells of the terrible storm with intense lightning and darkness which came over England when de Montfort died.<sup>17</sup> So great was the veneration of de

<sup>12</sup> *The History of England* (hereafter cited as *H. E. H.*) under his name H. Warren, *Anglia Sacra* (London, 1887), 2, 102; *Letters from Richard I to the Pope*, ed. E. Hall (London, 1874, 2nd ed.), pp. 92, 104.

<sup>13</sup> *Chronica Monasterii*, ed. H. B. Luard (London, 1904-05, 2 vols.), 1, 198, 199; *The Chronicle of William de Richanger*, p. 7; *Chron. Monasterii*, ed. H. B. Luard (London, 1904, 2nd ed.), 2, 779, 800.

<sup>14</sup> *Op. cit.*, p. 7.

<sup>15</sup> *Chronica Monasterii de Wyke*, ed. T. Byles (London, 1880-82, 2 vols.), 2, 121. A very detailed list is printed as a supplement to Richanger's chronicle.

<sup>16</sup> *Op. cit.* and also pp. under 7.

Mansuet that Henry III felt it necessary to forbid it and remind the people that the fallen hero was recommended to death. This passage from the *Victoria de Kenilworth* reads:<sup>17</sup>

Regibus humiliter tam dominum legatum quam dominum regem  
et ipsos dominos legatos sub obediencia archiepiscopi p[re]sentis inhibuit,  
ut si quis contra legatum vel quocunque pro rege vel pro iure  
regularetur, cum in circumstantiis vel delatione, sicut scripta sunt  
exhibens; et minabilis de eo tunc et tunc ab aliquibus rebus velis  
impugnare taliter p[ro]ferentes; et dominos rex hanc ordino sub p[re]sentis  
corporali veli distictis inhibere.

Prayers were written in his honor as well as a hymn imploring his aid.<sup>18</sup> In a political song of the period he was compared to Thomas Becket as we might expect:<sup>19</sup>

Mais par sa mort, le rois Mansuetus remp[re]nt la chetiv[er]te,  
Comme le martyr de Canterbury, d[eu]t en vie;  
Ne vult pas à son Thomas se peire n[ost]re Eglise,  
Et ceste mort se combat, a mortu n[ost]re legation.

In the reign of Edward I, Archbishop Winchelsey has some claim as a popular anti-royal leader. So successful was he that the king "could not wholly forgive the man who had brought on him the greatest humiliation of his life."<sup>20</sup> Since his name was offered with that of another anti-royal leader, Thomas of Lancaster, in 1297, by petition to Parliament as one for whom reconciliation should be sought, it may be assumed that miracles had occurred over his relics.<sup>21</sup> The leaders of the reign of Edward II seem to lack some of the finer qualities of character typical of the earlier men. Upon the violent death of Thomas of Lancaster miracles occurred in profusion, even though the king forbade his veneration.<sup>22</sup> For him an office was composed in which the parallel to Becket in name and in manner of death was stressed:<sup>23</sup>

<sup>17</sup> *Chron. Cantuariensis*, ed. W. Stubbs, 2nd ed. by H. W. C. Davis (Oxford, 1902), p. 495.

<sup>18</sup> Wright, *Political Songs*, p. 126.

<sup>19</sup> *Ibid.*, p. 125.

<sup>20</sup> W. Stubbs, *Constitutional History of England*, 2nd ed. (Oxford, 1905), II, 145.

<sup>21</sup> *Ibid.*, p. 145.

<sup>22</sup> *Annales Ricardiani*, II, 404, 405, 407; *Paris Hist. St. Pierre (Saint-Germain-en-l'Auxois)*, ed. of the Society of Edward I and Edward II, ed. W. Stubbs (London, 1904-05, 2 vols. Series, I, 294).

<sup>23</sup> Wright, *op. cit.*, pp. 125 B.

*Geoffr. Thoma, doctum diuina, sacrum Lancastria,*  
*Qui pro arceus imitatio Thomam Cantuariam;*  
*Cujus caput extenuatur parum de rotunda;*  
*Alque lumen determinatur rursus paria Anglia;*  
*Ecce nobis plus totus in oculis discimus.*

A layman and circumciser, suffering a political death which to a very large part of Europe must have seemed justified, he lacked practically every qualification to such as a religious saint. His "martyrdom" was one of the factors favorable to the accession of Henry IV at the end of the century.

The English people had shown that they regarded a number of anti-royal leaders as saints largely on account of their political activity. Each of these men had committed one or more acts of the kings in which the latter seemed clearly in the wrong in the eyes of many Englishmen. Precedent after precedent had occurred in which the anti-royal politician appeared on the side of justice. For this reason the leaders probably came to represent justice and even God. The growth of this theory would be characteristically English in that it was based upon a series of concrete acts.

There existed to a certain extent in the minds of Englishmen a kind of canonization of these saints. The alleged prophecies of Becket for Edmund and of Grosseteste for the de Montforts are instances of this. So are the comparisons of de Montfort and Lancaster to Becket. Certain other associations would be easy to recall. Four of these men had been Archbishops of Canterbury. Two had been Bishops of Lincoln and lay in its cathedral performing miracles. Langton had presided at the coronations of 1189 for both St. Thomas and St. Hugh. Winchester and Lancaster were recommended as subjects for canonization by a petition to Parliament. These saints were, of course, before the public as effective leaders against the king. Whatever their relation, both the feeling that the anti-royalists represented justice and the popular canonization of anti-royal leaders remain as facts in the thirteenth-century political situation. A number of questions arise as to their significance.

There are several indications that these facts combined to produce what seems almost a cult of political sainthood—a

consciousness that this group represented justice and that in their recreation justice was honored. This one account of the miracles of de Montfort mentions that "miracles first prefigured de Montfort et ses bons vaiz," and later miracles occurred at the behest of two knightly followers of Lancaster, who were killed at the same time as his Henry de Montfort (note the name) and Henry Wylington.<sup>12</sup> This suggests that the English people were ready to grant the honors of political sainthood to even the humblest martyrs. This fact, together with the number of these saints and the regularity with which miracles occurred after the death of each, seems to show a fully sustained emotional attitude. It would seem that an easy and almost unrepentable way of showing hostility to the king would be to invoke one of these saints. However, with respect to this as well as in other regards, the lists of miracles and other evidences of the attitude of the times need to be examined for their political implications.

Excellent evidence of the character of the appeal of one of these saints remains in the early catalogue of the miracles of Simon de Montfort.<sup>13</sup> This list includes miracles wrought upon many ranks of society. Over one hundred persons are named in such a way that it is difficult to define their social status. There were, however, fourteen knights and at least six ladies. The city of London is represented by three citizens and the professions by a merchant, a carpenter, and a miller.<sup>14</sup> Perhaps the most striking feature of the list is the number of religious persons who felt themselves benefited by the *incommensurable* de Montfort. Of the nearly forty clerks mentioned, the most prominent was an abbot, and there is a goodly number of monks, friars, and priests. Several of these had already visited the shrines of such orthodox saints as Becket and Robert of Knaresborough. The clergy are of special importance because in their sermons they could easily give publicity to the saints by whose society they were healed. In any event the clerks

<sup>12</sup> The Chronicle of William de Wylington p. 104. T. Rymer, *Fœderus, conventiones, litteræ, etc.*, ed. J. Clapham, F. Holman, J. Caley (London, 1862-86), I, 400.

<sup>13</sup> Printed as a supplement to The Chronicle of William de Wylington, pp. 37-428.

<sup>14</sup> London citizens, pp. 100-102; professions, pp. 37, 79.

were normally men of authority and in positions to encourage the veneration of those who they felt deserved veneration.

The statements of witnesses are also very suggestive. For instance, there is the case of Ralph of Thurst to which all the tale of Thurst is called to witness.<sup>17</sup> Of the recovery of a certain Alice the whole village of Burton Nervens is witness and of Roger Horsemann the village of Ireland.<sup>18</sup> So also the incredulities or marvels may learn from all of the parishes of Evesham of the cure of Olive of Leyminster; from the abbot and monastery of Winchcombe, the recovery of the monk, William de Sarbe; and from the village of Hild in Kent of the good fortune of its vicar, Roger.<sup>19</sup> Thus the good news spread so rapidly that it is no wonder people flocked to Evesham, enabling the monastery there to collect accounts of more than a hundred miracles in relatively few years. The desire of these men was obviously contrary to dissemination of interest. However, crowds even flocked to an image in St. Paul's, London, which was thought to resemble Thomas of Lancaster.<sup>20</sup>

Another question is in regard to the effect of political sainthood upon the conduct of the struggle against the king. The political saints led largely by their moral and political advantages. What violence occurred was mostly on the part of the king. Peckham, de Monfort, and Lancaster all died in the course of the struggle. Of the kings, Edward II alone suffered violence, and his death aroused only a flicker of moral enthusiasm. Even when de Monfort and his followers were taking power from the king, they retained an exemplary and even courteous regard for the persons of the royal family. May we not believe that it was due in large part to the "moderate and deeply moral and religious feeling" inspired by the political saints that the constitutional struggle so seldom descended to the plane of a bitter civil war?

One result of political sainthood was that it offset the change which was led against the anti-royal forces in the thirteenth

<sup>17</sup> *Ibid.*, p. 22.

<sup>18</sup> *Ibid.*, pp. 22 and 23 respectively.

<sup>19</sup> *Ibid.*, pp. 24, 26 and 27 respectively.

<sup>20</sup> *House of Monforts*, II, 282. *Chronique de Londres*, ed. E. J. Bagnall-London, 1904, (London Society), p. 22.

century — treason. Outside of the island the position of the English anti-royalists was seldom understood. The Curia mistrusted Langton and Grossmont and excommunicated de Marfort and Lancaster. Louis IX, as arbiter between the king and his opponents, could see only the royal side. In France those who opposed the king were feudal nobles; in England they might be saints.

The sanctification of hostility to the king had a more permanent effect than the immediate one of offsetting the charge of treason. It tended to neutralize the supernatural attribution of royalty. The king signed his charters, "... by the grace of God, king of England, lord of Ireland, etc.," and the phrase "by the grace of God" had more than a hopeful significance. Coronation with its ceremonies of anointment and consecration by the bishops lent ecclesiastical approval to the common idea and gave the kingship a kind of indelible character, almost eternal in nature. In England as in France the king began to exercise dramatic royal powers and headed the shift by his touch.<sup>18</sup> These were powerful advantages, but the sanctification of the rebels was more than a counterbalance. Saints ranked higher than kings in the Middle Ages.

The English royalty might possibly have overcome this advantage of the opposition by weighting the balance of saints loyal on their own side. This happened in France, as Professor Gervais has stated.<sup>19</sup>

The Capetians might lack the energy and capacity of the house of Anjou, for example, but they were more highly favored of Heaven than any other sovereigns in Europe; and in the long run they secured solid power from such impossibilities as miraculous cures and the gift of healing. . . . Feeling is, after all, one of the great realities of politics in any age.

Since the Capetian dynasty regarded itself, and was regarded, as carrying on the mission of Merovingian and Carolingian rulers, it inherited also, without much doubt, from the extraordinary and complicated growth of the *chanson de geste* in the second half of the eleventh century. . . . It would be absurd to argue, of course, that the royal line of France fostered the growth of the Charlemagne legend in

<sup>18</sup> E. E. Schattschneider, "King Father and Politics," *American*, 3, 48.

<sup>19</sup> *Ibid.*, p. 48.

order to strengthen his own position. . . . It is almost certain, however, that they profited from the popular fame into which the great emperor emerged.

The French were also aided by the prestige of Louis IX, the embodiment of justice, who quickly became St. Louis. Finally there was Jean of An who appeared as the incarnation of successful resistance to England. No doubt it was easy to believe in the divine right of a line of kings traced back to Clovis and Charlemagne, possessing a Louis IX, and aided unanimously by a Jean of An, and to feel in its steady increase of power a manifestation of divine approval.

In England somewhat the same development began. There were among the early Anglo-Saxon kings a number of confessor and martyrs, often with a strong local appeal, like Edmund or Oswald. None attained to the status of a country-wide hero. Professor Greenhalgh has urged that the legends of King Arthur were encouraged as an aid to the Angevin dynasty by Geoffrey of Monmouth.<sup>17</sup> King Alfred was a great king — possibly the Anglo-Saxon to appeal to the ruling Normans. Edward the Confessor was a rather lazeid character. As late as 1141 Henry III paid his most part to wife of the lives of St. George and St. Edward.<sup>18</sup> In spite of these indications of attention to royal sainthood the cult never seems to have developed much strength. No legendary hero attained the place of Charlemagne in the imagination of the English, nor did any of the Angevins reach the saintly dimensions of Louis IX, and St. Charles I can hardly be compared to Jean of An.

The only Angevin candidate for political sainthood lived too long. It is possible that if Richard I had died before England had had to pay his ransom, or if Edward I had passed away by 1287, either one might have been enrolled among the saints and have aided by his death the position of royalty in England to somewhat the supernatural elevation of French royalty. Nevertheless, it would have been difficult for either of them. Against the background of Thomas Becket, Hugh of Lincoln, Stephen Langton, Edmund of Abington, Robert Grosseteste,

<sup>17</sup> *Ibid.*, pp. 40-1.

<sup>18</sup> *Ibid.*, II, 11, 27-28 ff.

and Simon de Montfort, the character of these crusades would not have stood out as did that of Louis IX against his opposition. French royalty contended largely with more strictly feudal lords whose operations possessed little moral value. Especially in their supernatural attributes, the difference between the anti-royal forces of England and France is tremendous.

A final question we may ask is of the relationship of political withdrawal to the development of Parliament. Since some of the saints helped stage parliamentary action, it is possible that they gave this institution some prestige. Was Parliament looked upon as the successor of the saints, and its spirit regarded as a continuation of their confident assertion of rights against the king? Did the growth of Parliament and of other effective means of dealing with the king cause the decline of political withdrawal in the fourteenth century? Or was this decline a result of a lack of faith? Certainly England produced no saints in this century.

For any subject in such an ecclesiastical age as the thirteenth century the ecclesiastical and supernatural implications deserve consideration. The fact of the popular canonization of several anti-royal leaders, with no parallel canonization of contemporary kings, is certainly significant whether or not it was actually part of a cult of political withdrawal. This phenomenon was probably partly responsible for the dignified attitude of the anti-royalists. It certainly helped to neutralize the supernatural attributes of the English royalty by raising rebels to the status of saints and rebellion to the realm of sanctity. Its relationship to the rise of Parliament is uncertain and needs further study. However, the canonization of opposition to the king was one factor, possibly an important one, in elevating the anti-royal opposition to a position of respectability and power in England.

JAMES C. EDWARDS



## TAXATION AND REPRESENTATION IN THE MIDDLE AGES

HERRIN, as a graduate student, had launched on a dissertation connected with English municipal history, I was convinced by my instructor — the scholar to whom this volume is presented — to begin my work with a review of parallel development on the Continent. This after a fashion I did. However, as I now know, I hardly succeeded in finding out what the books were talking about. It was not that the authors were obscure; individually they were clearly first. It was only that they irreconcilably failed to agree. Particularly with regard to the taxation of the towns, which involved so many fundamental problems, the result of my reading was a growing bewilderment.

Since, for example, the customs of London could not be explained without reference to the customs of France, nor the English tallage apart from the Continental tallie, leading writers on these subjects had naturally followed French authorities. But on examination the doctrines of the latter seemed hardly consistent either with the English evidence or with each other. And the conclusions of German scholars, based on materials from their archives, offered still another set of contradictions.

Accordingly, it was not till curiosity had led me to the documents that I began to understand what underlay the discussion. For one had only to place a few charters side by side to realize that they agreed much better than the learned commentaries which they had elicited. Whether from Langbein, Halmant, Cheshire, or Westphalen, they seemed to reflect much the same state of society and government. And eventually I became convinced that, when certain legislative and nationalistic prejudices were set aside, a more sensible interpretation of the sources immediately suggested itself.

As the result of the somewhat hasty work that I have been able to do in the past dozen years, I do not flatter myself

that I have made any revolutionary discoveries. I am sure only that I have gradually given up a number of ideas learned from standard books; and I hope that to state these ideas, to summarise my changes of opinion, and to present the reasons which impelled them may not be without service toward further investigation.<sup>1</sup>

In the latter part of the eighteenth century educated Europeans began to show a livelier interest in mediæval institutions. This interest is commonly described as part of the Romantic Movement, but it owed at least as much to the scientific curiosity of the scholar as to Rousseau's fad of the noble savage. It was Montesquieu who passed the first famous tribute to the British constitution, making the remark heard round the world, that this admirable system of government had originated in the forests of Germany.<sup>2</sup> For at least a century Englishmen had already been explaining their liberties as a heritage of the Middle Ages; and henceforth the enlightened bourgeoisie of the Continent found equal inspiration in the medieval traditions of the Monks of Parliaments. So, in the great Declaration of 1789, the principle of no taxation without representation came to be understood alongside that of popular sovereignty — therefore, both of them, essentially mediæval.

The effect of the French Revolution, though eventually to discredit the cosmopolitanism of the philosophers, was by no

<sup>1</sup> The following study is in large part based upon the article already published, but since the conclusion of the last two considerably modify views expressed in the three earlier, I am writing to bring all judgements. For the sake of convenience, I include a list of these publications, placing in brackets the observations that will be used throughout the notes.

<sup>2</sup> "The Spirit of the English Monarchy," *Essai sur l'esprit des loix*, 1788, 407 ff. (F.H.S.)

<sup>3</sup> "Les idées desirables des Anglais sur l'État ou l'État anglais," *Les idées desirables*, 1788, 179 ff. (F.H.S.)

<sup>4</sup> "Les traits de nos idées d'hommes," *ibid.*, 1791, 187.

<sup>5</sup> "The Origin and Nature of the State," *Revue française de philosophie et d'histoire*, 1, 301 ff. (F.H.S.)

<sup>6</sup> "The Political Culture in England," in *Revue française de philosophie et d'histoire* (Geneva, 1907), 2, 401 ff. (F.H.S.)

<sup>7</sup> Except the last, 1788. For particularly full cf. 16: "On l'on voit les institutions anglaises de l'État se le former les Français, on verra que l'on a été plus en Angleterre que les Français en leur gouvernement politique. Ce gouvernement a été l'œuvre de la loi."

means to discharge the mentioned interest in constitutional history. For the new nationalism of the nineteenth century tended from the beginning to make the politician also a historian; to give an intensely practical bearing to the study of representative institutions. Thus, as the Napoleonic Wars drew to a close, and men once more had the opportunity for literary research, a younger generation of students arose to test in learned books the half-imagined theories of their predecessors.

In 1828 Hallam published his *View of the State of Europe in the Middle Ages*, which included a partly famous discussion of English parliamentary origins. After a careful review of the documents, Hallam showed that the representative system had its true beginning under Edward I, who, he said, was forced by public opinion to abandon his arbitrary willings and to recognise the right of the boroughs to grant their taxes freely. In other chapters he treated the origin of Continental assemblies, but through lack of accessible sources his discussion was necessarily meagre.<sup>1</sup> What Hallam was to the English-speaking world Galot was to the French, for by his famous lectures he did much to popularise the study of parliamentary history on the Continent. Somewhat more prone than Hallam to vague generalisation, he interpreted the evolution of representative government in very much the same way.<sup>2</sup> And in the meantime similar opinions had been set forth by Eichhorn regarding the diets of Germany. These assemblies, he held, were constituted by the traditional rights of the clergy, nobles, and burghers. The towns, being exempt from feudal duties, or

<sup>1</sup> E. Hallam, *View of the State of Europe in the Middle Ages*, 1 vol. ed. (London, 1832), 82, 88, 102, 121, 122. Hallam attributed the formal abolition of the rights to the Constitution of the Charter by Edward I, but even before that, he said, "it was a more gradual manner in by the willingness of the people before to have their petitions." And the success of his interpretation depended it must appear. "In Philip IV and the States General, *ibid.*, ch. 2, pt. 2. "But would I deny the influence of pure popular petitions, the success of embowering petitions, the respect due to the progressive evolution and opinion of the towns, and the application of that ancient maxim that no man is exempted, that whatever was elevated to the public dignity of a town, required a right to participate in the imposition of public taxes."

<sup>2</sup> M. Galot, *Études sur l'origine du gouvernement représentatif en Europe* (Paris, 1832) — the published form of his lectures in 1828-29. Lectures at 101 deal with the origin of the English House of Commons. For the French sources, see his *Études de la constitution en France* (Paris, 1846), iv, lectures 117-118.

taxes in place of military service, were at first negotiated with separately; then, for the sake of convenience, deputies were called to meet with the other privileged subjects of the *Landstæth*.<sup>1</sup>

Accordingly, by the middle of the sixteenth century, the doctrine had definitely appeared that, not only the English parliament, but similar councils all over Europe mainly owed their existence to their lords' need of funds; and that, in particular, the emergence and rapid development of the Third Estate was primarily due to the exemption of the towns from all but freely granted impositions. The theory, though combined with many decidedly romantic notions, was eminently reasonable, and it fitted what facts were then known concerning the fiscal institutions of the Middle Ages. It was only as a more critical analysis of the sources came to be made that certain investigators began to doubt the correctness of the original explanation.

William's idea, well advertised in Germany by Goshel,<sup>2</sup> was re-examined by Riez in 1888 and found wanting. It was, he said, a mistake to suppose that Edward I had relinquished the ancient right to tollage which he, like other princes, enjoyed from his domains. As a matter of fact, the king continued to tax his towns at pleasure during the very period when the House of Commons was taking form. Deputies from the boroughs, as from the counties, were summoned by the king, not through fiscal necessity, but because they were useful in connection with the judicial and administrative work of parliament. The representation of the commons was the product rather of royal ambition than of national self-assertion.<sup>3</sup>

<sup>1</sup> E. F. Hallam, *Parliaments, Estates and Communities*, 2d ed. (Oxford, 1888-1891, 2 vols.), II, 111-12. The author's theory, and Hallam's, have been called his "great law." (See *London Pall Mall* and the *Standard* when further quotation was wished on this or other points.) However, the law was the *Verpflichtung* and then *placet* theory, more than the *liber homo* theory, which is wrong.

<sup>2</sup> E. Goshel, *Englands Verfassungsgeschichte* (Götting, 1862), pp. 139-42.

<sup>3</sup> L. Riez, "The Theory of medieval Taxation," *Revue des Études* II, Riez, 1888, pp. 1-12. He has argued that Edward I had the legal right to tollage his towns and other domains at pleasure, Riez not unquestionably right. But he admitted (pp. 17-18) that political considerations made it wise to disregard a purely technical point. It is just these political considerations which I think his account absolutely totally underestimated. Cf. William's remarks, above, note 5.

However, at the time when Rieu published his remarkably clear-sighted article, the ultra-nationalistic school of Freeman was in the hey-day of its glory. English opinion, taught to see in Gladstone's Reform Act a mere return to primitive democracy, was in no mood to appreciate romantic historical criticism in a foreign periodical. So the mark theory of Meuser and Kneble long continued to flourish, and on both sides of the Atlantic champions of Anglo-Saxon liberty long continued to pour both their eulogies.<sup>1</sup> Even the cautious Stubbs was to a considerable degree lulled along by the enthusiasm of his contemporaries. Though holding back from the exuberance of Freeman, he still tended to interpret Edward I's policy as the result of unflinching heroism, the logical extension to the kingdom at large of principles long tried in village self-government. Since the arguments of Rieu ran counter to his whole thesis, Stubbs passed them over in silence and, misjudging the arbitrary character of the fallacy, still cited Ballan with approval.<sup>2</sup>

Nevertheless, since the opening of the new century, the tendency of historical criticism has been more and more to substitute sound research for the patriotic fancies of Freeman. Modern scholars, intent on correcting over-idealization in history, have drifted far even from Stubbs, and we have given proportionately greater attention to the doctrine of Rieu.<sup>3</sup>

<sup>1</sup> E. L. von Meuser, *Wideningour-Schiedsliche-Mark, Hof, Dorf, und Stadtwelt*, 1880 (Chicago, 1880), and other well known works published in the next centuries (quoting J. W. Kneble, *The House in English History*, 1880); R. A. Freeman, *The Growth of the English Constitution* (London, 1874). An interesting sketch of this idea in connection with the history of parliament will be found in H. A. Ford, *Representative Government* (New York, 1890) — a book which moreover hardly touches the subject of the present study. The further discussion of the relation of the mark theory to the question of representative government were given in the work of Freeman and Rieu in the forthcoming *Great Book of the Social Science Research Council*.

<sup>2</sup> W. Stubbs, *Constitutional History of England* (Oxford, 1899), etc., etc. Stubbs often allows Rieu to give adequate recognition to the work of Rieu. However, in his own book he has not heeded even a definite right of the Third Estate to grant voluntary taxes. He does it through out the fact that the representative system was the continuation of previous administrative practice, not only in fiscal matters, but in others as well.

<sup>3</sup> See particularly E. E. Schattschneider, *Constitutional History of England* (New York, 1907), pp. 117ff.; A. E. Wicks, *The History of the English Constitution*, 2nd ed. (New York, 1907), pp. 102 ff.; J. W. Kneble, *The Evolution of Parliamentary Rule in England*, 1880; R. H. Tawney, *Land and the People* (The Clarendon Press, Oxford, 1912), p. 84 ff.; L. J. Hall, *Chivalry*, 1912. In general, the best three of these authors emphasize just

Indeed, the reaction against the older school is now so pronounced that there is danger of its reaching another extreme. One who is quite willing to discount official theories, and one who has no desire to minimize faults in the democratic mode, may still believe that taxation and representation were vitally connected in the thirteenth century. At any rate, before the matter can be settled one way or the other, prevalent ideas with regard to the fiscal obligations of the towns must be somewhat clarified.

The late Professor G. E. Adams, in the course of his admirable statement of constitutional origins in England, was led by a clause in *Magna Carta* to pay some attention to the taxation of the mediæval boroughs, particularly of London.<sup>16</sup> Holding the generally accepted view that the tollage was essentially servile, but knowing that it was regularly paid by burghesses who were not serfs, he sought to explain the anomaly as a result of the Norman Conquest. That event, he said, had made the towns demoralized properties of the king and other lords, and so caused them to be treated as *infæes communities*.<sup>17</sup> Even London was legally tollable at pleasure, but it was only temporarily under John that the city, given the rank of commune, was liable for feudal aids on royal occasions.

This technical definition of commune Adams took from Luchaire,<sup>18</sup> but the application of it to the English evidence was part of his own rigidly legalistic system. If only communes

did not subdivide, neither as of greater importance in producing commercialism government than taxation, but with their idea of the latter subject I cannot altogether agree. To my mind, M. Faugier has put the question less bluntly. See particularly his criticism of *Howe* loc. cit. 183 E.I. and below, p. 213.

<sup>16</sup> *The Origin of the English Constitution*, 2nd ed. (New Haven, 1905), particularly pp. 161 ff.

<sup>17</sup> *Const. Hist.*, p. 171. "As boroughs were, the towns themselves part of the feudal system and therefore subject to the feudalities and exactions of the lord." In this direction Adams follows the lead of A. D. White (*Eng. Const.*, pp. 113, 120). "The towns the feudal lords were lords of services tollage which of course, 'commune' upon capital, but treated." *Origin of Eng. Const.*, p. 124. *Const. Hist.*, p. 180. "The feudal character of Feod. p. 15 seems to characterize as true. For evidence, in my opinion just that, of Adams' technical distinction between tollage and aid, see W. D. Macintosh, *Anglo Feod.*, 2nd ed. (London, 1885), pp. 226 E.I.; *Feudal System, Studies and Their Supplementary to Burke's Constitutional History*, 2d. Edition (London, 1900-12), 1, 16 E. See also E.H.E. note, 222 E.

<sup>18</sup> A. Luchaire, *Études de l'histoire française* (Paris, 1892), p. 272, quoted in *Origin of Eng. Const.*, p. 182.

had the right to consent to extraordinary taxation, and if even London failed to make good its claim to that status, how did it happen that within the century all the boroughs were allowed to vote members in parliament? If, as Leche seemed to conclude,<sup>12</sup> the representation of the commons was not a matter of feudal law at all, how could he be sure that the claims of the Londoners were? The question of aid and tallage is in truth much less simple than he realized, for as usually it is found to involve the fundamentals of feudalism, the manorial system, and urban development. It could not be settled by the mere dictum even of a great scholar like Leche.

As a matter of fact, French historians had by no means accepted the famous *Maison* as the last word either on commons or on taxation. Leche's was but one — and not the happiest — of many arguments advanced to elucidate a very obscure subject. And for a long time these arguments had turned upon the meaning of feudal law. Augustin Thierry, taking from Guizot the task of more definitely explaining the representation of the houses either in the estates, expressed the opinion that the privileges of the towns had made them an integral part of the feudal hierarchy, and had so entailed them to the free vote of all taxes.<sup>13</sup> This was an idea well calculated to appeal to a French audience. Feudalism was something that had grown up at home. If parliamentary government was but the logical extension of that system, it did not have to be regarded as essentially foreign.

The suggestion of Thierry, though supported by Boutaric,<sup>14</sup> was first consistently followed by Vaisry. In a noteworthy

<sup>12</sup> *Le Chevalier*, *ibid.*, p. 178. The introduction of representative assemblies was supposed to be due to an existing condition of feudal towns but compare p. 184, where the "feudal principle of an advance consent to an extraordinary tax" is said to have been extended to all forms of taxation. Mr. Pollard (*Medieval Govt.*, p. 187) appeals to the feudal principle of tall to want to explain the representation of the towns.

<sup>13</sup> *Journal des économistes* (Paris) 15 (1859), vol. 1, 1860, col. 1, 1861, p. 2000: "Par leurs privilèges . . . les villes ont obtenu . . . participation de la souveraineté féodale, et le féodalisme représentatif s'est en quelque sorte transformé en monarchie représentative." There are numerous other references to the same effect.

<sup>14</sup> *Le Chevalier*, *loc. cit.* (Paris, 1859), p. 18. But in his other well-known works Boutaric somewhat contradictorily does. For a fuller discussion of these authors, see *J.E.H.*, vol. III E.

series of essays he elaborated the thesis that the royal tenth was only the feudal aid, somewhat extended as to the persons who paid it, the lands where it was levied, and the occasions on which it was levied.<sup>17</sup> This theory, though vague, was at least intelligible. Its modification by Guy and his school brought little but confusion.<sup>18</sup> However, since being popularized by Luchaire, the notion has prevailed that only the commons was a member of the feudal hierarchy and so exempt from all impositions but the aids of the vassal. The consequence, as Achille later discovered, was to make the representation of the Third Estate inexplicable by feudal law.

Meanwhile Volney's system had been assailed from another quarter. Calley argued that the only taxes levied by the medieval kings of France were either obligatory aids on recognized occasions or remunerations of owed military service. Therefore, he said, the calling of the estates must be attributed to that part of the feudal contract which forbade the lord to subordinate vassals for troops without the vassal's consent — an arrangement that applied to retailers as well as to noble tenants. On the destructive side the force of Calley's attack was at once recognized, but since his own proposed solution gained no favor, matters remained more obscure than ever.<sup>19</sup> The trouble was that no one had investigated the nature of the exemptions in which the towns were shrouded in the twelfth and thirteenth centuries.

Now this very problem, so unaccountably neglected in France, had long attracted the attention of scholars in Germany. As early as 1878 it was treated with extraordinary

<sup>17</sup> A. Volney, *Étude sur le régime féodal en France* (Paris, 1870), p. 166; *Revue des études historiques* (Paris, 1880), I, 144, 145 ff.; I, 414.

<sup>18</sup> A. Guy, *Les institutions de France* (Paris, 1888), I, 140 f. *Revue historique*, *Revue des études historiques* (Paris, 1888), pp. 381 ff., and *les sciences historiques* (Paris, 1888), pp. 161 ff.; Luchaire, *les sciences historiques* (Paris, 1889). See above, note 15.

<sup>19</sup> Calley, *Revue de la presse* (Paris, 1878), and *Revue des études historiques* (Paris, 1881). The various reactions to Calley's doctrine, see *R.H.*, cols. 488-491. The most notable amendment in subsequent years was made by Lucien de Rosier, *Recherches sur les sources féodales* (Paris, 1892), I, 111 ff.; that the exemption, that of the towns rather than that only of the immunity of the cities for subverting the extent of their constitution. But the date is uncertain; very different interpretation of the doctrine (*R.H.*, 1893, 1894).



throughness by the distinguished Karl Zeuner,<sup>19</sup> and from 1882 to 1885 it continued to be one of the chief concerns of another prominent medievalist, the late Professor Georg von Below.<sup>20</sup> Through their efforts, the work of the student wishing to compare the taxes of medieval Germany with those of France and England has been enormously facilitated.

Zeuner showed, first of all, that the *Rede* commonly paid by townsmen was originally the same taxation as that paid by peasants. Furthermore, he proved that the *Rede* was sharply distinguished from rent and was not, as Hildebrand and others had thought, a substitute for military service. It had for its base nothing more specific than the inevitable demand of a powerful person. It was essentially a tax. Originating in the requests (*Postes = Postes*) of lords for voluntary assistance, and long-considered unjustifiable, the imposition was gradually legalised and by the end of the twelfth century had become the recognised prerogative of the Landgrave or other holder of public authority. As such it appeared in municipal charters, by which it was commonly restricted to fixed sums, or occasionally abolished. And this practice in turn necessitated the special treatment awarded the towns when later princes tried to levy more general subsidies and called diets to grant them.<sup>21</sup>

To Zeuner's general argument Georg von Below gave enthusiastic support. Working back from the legal attributes of the fourteenth-century Landgrave, he had become independently convinced that the *Rede* was a public impost; in fact it was the liability for it of the burgher estate that led him to consider the nature of the medieval town, and so to write his epoch-making articles on municipal origins in Germany. But in one respect he took sharp exception to Zeuner: the *Rede*, he insisted, had never been other than *Landesherrschaftlich*. From the beginning it was a *Landesbeitrag* levied by the Carolingian count or his legal representatives. It is true the taxation came into the

<sup>19</sup> K. Zeuner, *Die deutsche Hülfssteuer*, in *Alt. Schmalzer, Stadt und Landesherr: abgaben* (Münster: Leming, 1878), vol. 1.

<sup>20</sup> G. von Below, *Die landesherrliche Forderung in Geld und Ding* (Breslau, 1881-1882); *Festgabe der Wissenschaftlichen Zeitschrift*, 1881, pp. 188-9.

<sup>21</sup> For further discussion of Zeuner's argument, together with a criticism of its main points, see *ibid.*, vol. II, p. 202.

lands of private lands, that was a later development, the result of alienation. And to all objections raised against him Bellow was able to bring such expert reasoning that to-day the opposition has virtually collapsed. With this learned opinion in Germany seen in the *Reich* "die älteste Deutsche Steuer."<sup>12</sup>

Now any one who first encounters this ancient German tax in the writing of Bellow and his people will not be likely to recognize it as the *taille* of France. And yet the most cursory examination of a few pertinent charters will at once convince him of the identification, for in frontier regions, where Teutonic and Romance dialects met, *petite* (the Latin translation of *Reich*) appears as the perfect synonym of *taille*.<sup>13</sup> There, at least, what one was the other was. If the *taille* was a service obligation, so was the *Reich*; if the *Reich* was a public tax, so was the *taille*. Could any example better prove the complete identity of offering a purely nationalistic explanation for an institution common to both sections of the Frankish Empire?

The mere discovery of such a glaring contradiction challenged reconciliation; and this I have made some attempt to effect, principally by a study of documents emanating from the Franco-German borderlands. But the fact that conclusions drawn from that evidence agree so remarkably with constitutional principles in England will perhaps excuse the broadening of my generalizations. They are presented tentatively. For though it seems to me that they must be sound, how sound they are can only be determined by much more research than I shall ever accomplish.

In the first place, there is the squared over public and private authority, which, without definition of terms, gets nowhere. Classification of rights in the Middle Ages based solely on juristic analysis is, in my opinion, historically worthless, for the men of that time knew nothing of it. On the other hand, in so far as the terms 'public' and 'private' are used to designate historical categories, to indicate whether or not a given power

<sup>12</sup> Reading of it, in the *Proben der Wissenschaften*. As will appear below, I have been influenced to modify the view expressed in *M.A.*, *loc. cit.*

<sup>13</sup> *M.A.*, *loc. cit.* 7-10, 11, 12.

was originally negative, the distinction has its value, and was not altogether foreign to medieval thought. In eleventh-century Germany, where feudalisation had only begun, such differentiation would indeed be clearer than in contemporary France, where precedent custom allowed various political rights to the vassal. But even there did any one suppose that merely to hold land was to possess governmental authority? Countless charters are proof to the contrary. To the best of my knowledge, the military, judicial, and fiscal powers of the baron or knight were always recognised as coming directly or indirectly from the king.<sup>12</sup>

So, when French writers classify a right as *seigneurial*, they do not, or should not, deny its public character; and Fobos was not justified in meeting at the usage,<sup>13</sup> but the distinction between *Landesherr* and *Grafsherr* can hardly be applied to a thoroughly feudalised country. From this point of view, also, the *régime seigneurial*, or manorial system, cannot rightly be described as wholly private, for it included many elements derived rather from lordship than slavery. It is my impression that, compared with economic unfreedom, legal servitude was of secondary account. The law of servitude was derived from the law of slavery, but it was not that which brought the mass of the people under the will of the lord. The average peasant needed the protection of a great lord in order to live, and through that necessity became subject to his jurisdiction. What came to be held master of servitude can all be found in an early age as territorial obligations. At the same time, however, bondage did exist, and legally carried with it absolute rightlessness as against the lord. The payments and services that he exacted from the free peasant as political superior he might take from his serf as proprietary master. On which side in a given case the institution was older it is at present impossible to say.<sup>14</sup> Practically, the technicalities of legal

<sup>12</sup> *U.R.*, v, 222 ff.; *M.H.F.*, I, 170 ff.

<sup>13</sup> *Précis des Institutions*, p. 361, note.

<sup>14</sup> In spite of modern generalisation in many books, the subject of serfdom is the earliest Middle Ages and very obscure. It is believed that H. Bloch has still not reached the end of his researches on particularly the "transformation of serfdom." In *Alteuropäische Leibeigenschaft* (Leipzig 1914) p. 21. *Verhandl. des 10. Internat. Hist. Kongr.* (1913).

status must have mattered little in an age when the average man was helpless to improve his condition and the manorial authority of the lord was distinctly arbitrary.

Whatever may be made of other peasant obligations, there can be no doubt as to the character of the early tithage, or *decime*. In the sources where it is first mentioned it appears in its original form levied by the territorial lord upon the manors under his jurisdiction. Like the right to hold a court or to levy military service, it was a political prerogative, in strict theory derived ultimately from the crown. Nevertheless, it was not and never had been a royal tax, Roman or Frankish. And we have no sure evidence that, as Beloe believed, it had ever been the crown's monopoly. In thirteenth-century France, at any rate, it certainly was not, for neither the count of Flanders nor the duke of Normandy, the two greatest princes of the West, had exclusive enjoyment of it. Rather it appears, like the manorial jurisdiction that it accompanied, to have been a vague power which the feudalisation of society had widely dispersed before the great principalties took shape.<sup>22</sup>

In proportion as Germany remained more thoroughly Feudal than France, such public rights as potentially went with

<sup>22</sup> Beloe believed that *decime* was not purely manorial but came out in some way that manors and lords were to see the chapters cited in H.R., v, 352 ff., and F. Lot, *Études sur le développement personnel et social de la France au Moyen Âge* (Paris, 1905), pp. 100-5.

<sup>23</sup> Beloe was inclined to believe that the *decime* originated in the West Frankish Kingdom and spread to the east (Précis des Études historiques, p. 401), but his conclusion that the institution was founded by the count seems to have been based on purely deductive, rather than factual evidence. When the manorial character of *decime* and tithing evidence give us any information on the subject, they show all sorts of powerful non-manorial lords levying *decime* (H.R., v, 352 ff.). Similar instances were not unknown in Anglo-Saxon England (H.R.F., i, 475, note E). The clearest proof that the *decime* was not a purely manorial institution is the already-cited law to the effect that the feudal income established in England by William the Conqueror permitted such lords to village his manorial dependencies (H.R.F., i, 475-476). Another good example is the custom of the forest set in H.R., v, 360. In the next respect, both had the previous model M. Lot has considered the origin of the *decime* in connection with the *decime* of the manorial lord. On the basis of article 2 of some writs in the register of the Curia Regia, as far as the *decime* is concerned, I admit that he is right (pp. 101 ff.) and, for statements that I furnished in 1905 before making an independent examination of the sources, he is well justified. However, the article in H.R., v, 361, was originally intended to demand that in H.R., v (pp. 3-105, note 1). If M. Lot will accept the writs, I am confident that he will find the conclusion to be founded on evidence from the writs.

the ecclesiastical office would tend to retain their more positive centralization.<sup>22</sup> However, even there political disintegration was at most only delayed, and eventually the Asele ended as it had in France. On the whole, I am inclined to think that Helzer underestimated the extent to which such local authority had been localized in twelfth-century Germany. Perhaps, if he had not followed Zeumer in restricting his research to thoroughly Teutonic documents, he would not have been so positive that most local lords had no right to tallage their dependents.<sup>23</sup> And in one other respect, I believe, Helzer's doctrine stands in need of amendment. Although many French authorities have unquestionably gone wrong in pronouncing the tallage essentially servile, it is equally incorrect to affirm that no such thing as the servile tallage existed.<sup>24</sup> How old it was in the twelfth century, when we first hear of it, is doubtful, but it lasted long after the tallage in France had lost its arbitrary character. Moreover, this fact greatly helps us to understand the opinion that men had of it. For if the tallage was as ancient and honorable as Helzer would have us believe, why was it so universally detested? With this question we are logically brought to the subject of emancipation.

The breakdown of the social system in which the tallage had developed began with the economic changes of the eleventh century. By 1100 rural and urban colonization were already well under way, and one immediate result was to place a new premium on personal liberty. The man who was legally free to move found it increasingly easy to improve his condition. Nor could serfs always be traced and brought back. For the first time in centuries opportunities for better livelihood became numerous, and as fast as they arose, men came from somewhere to take them. To meet the demands of a migratory population

<sup>22</sup> See J. H. Thompson, *Feudal Society* (New York, 1938), chs. 10-1.

<sup>23</sup> In this respect medieval scholars share the persistence of historical customists' faith alike of the thirteenth, see particularly the example cited in *R.A.*, 12-1, 18-5. On the failure of Helzer and Helzer to appreciate the significance of contemporary *statuta*, *ibid.*, pp. 34, 36.

<sup>24</sup> It is, of course, impossible to explain the origin of the servile tallage apart from that question. In the eleventh century the lord could be tallaged at pleasure; by his lord no longer could he keep all he wanted him, however, to contract for protection of another lord, his lord-master could collect only what the latter permitted (*R.A.*, v, 1201-2, 1211-2).

and to attract further settlers, lords began to vie with one another in guaranteeing privileged status to residents within their jurisdiction. Little by little the system was developed and extended, so that in the course of two hundred years arbitrary seigniorial obligations had already disappeared throughout the more progressive regions of the West. Henceforth burdens that had once fallen upon the bulk of the rustic population tended to be characteristic only of arches whom the emancipation movement left untouched.<sup>12</sup> Between them and even the humblest bourgeois lay an ever widening gulf.

Familiar as is the subject of urban liberties, one of its fundamentals still needs emphasis — the public basis of the town's establishment. Mere ownership of the soil did not suffice for creating a privileged municipality; that necessitated the tenure of immunities which could be shared with a group of subjects. The lord of a town was the person who chartered it. As he chartered it, so it was said to stand on his domains; for that expression, in the political sense, meant the territory under his immediate jurisdiction.<sup>13</sup> And if under feudal custom the ordinary lord possessed the legal faculty of conferring bourgeois status, that is only added testimony to prove the public nature of his authority. Thus the typical emancipation charter to a community was not the act of a master freeing his bondmen; it was a grant of territorial franchise. It customarily restricted the exercise of the political rights — judicial, military, and fiscal — which the greater held within the locality, and also guaranteed to all within freedom from the exactions of their previous lords. Moreover, this liberty, except for specified exceptions, applied even to immigrant arches. Everywhere the precedence of territorial over personal rights was advertised by the famous law of a year and a day.

In this way, and only in this way, can the taxation of the mediæval town be satisfactorily explained. The urban with-

<sup>12</sup> On this and what follows, see *J. E. H. M. J. J. J. J.*, 102 ff.

<sup>13</sup> From the well known argument of that lord's franchise that and beyond, pp. 710 ff. concerning the distribution of the borough in Germany is an analysis that is to be found in *Germany's History*. Moreover, the lord had nothing to do with the town. Following *Germany's History*, it was not to be assumed that the lord was the one who chartered the town. The three in this respect of *J. E. H. M. J. J. J. J.*, 102 ff. are also, and so.

ment, because it was limited within a lord's territorial immunity, was subject, unless he chose to sell it, to his exclusive and unrestrained power of tallage. But as a matter of fact, the exaction, like arbitrary justice and unlimited military service, was found incompatible with the interests both of the barons and of their patron. So it tended to disappear. The most highly privileged towns gained complete exemption, often with the guarantee that they should be liable only for freely granted subsidies. Occasionally, though by no means regularly, special aids were reserved on definite occasions, the famous three cases of northern French custom, or others. However, no separate treatment in this respect was given towns called *communes*: the argument of Giry and Luchaire, in which Adams placed such confidence, was without foundation.<sup>10</sup>

In Germany, except for the great cities of the Rhine valley, municipal development was much more backward than in France, and most communities at the opening of the thirteenth century were still subject to arbitrary tallage. Even when that was ended, grants of complete exemption were rare. The average German town, like a French village, secured only the restriction of its *Heil* to a fixed annual sum.<sup>11</sup>

After 1066 English custom, as was to be expected, followed the French. *Domesday Book* treats the tallage as a Norman imposition intimately connected with manorial organisation. It was not service, but was levied by the baron upon all tenants, notably villeins, subject to his jurisdiction. It was apparently an annual imposition quite distinct from ordinary rents, and a heavy one. This tallage, as is well known, long continued to be a prominent feature of manorial exploitation, but by the thirteenth century it generally came to be only a fixed charge for the free peasant, and so in its unmodified form a mark of servile status.<sup>12</sup>

So far as the boroughs were concerned, the chief peculiarity of their history was their intimate connection with the man-

<sup>10</sup> *R.H.S.*, vol. II, note 1.

<sup>11</sup> *R.H.S.*, vol. II, p. 8.

<sup>12</sup> *R.H.S.*, II, note 1, regarding what I write in *R.H.S.*, vol. III, p. 201 ff., that the levying of tallage usually served.

aside, for the dominant position of the crown in England before and after the Norman Conquest resulted in keeping most of the towns on the royal domain. However, there were notable exceptions, and in the twelfth century lay and ecclesiastical nobles, following Continental models, founded many new communities. In the charters of these seigniorial boroughs tallage sometimes appears, being limited according to French precedent. But the royal boroughs had their own custom. There the Norman king seems to have been satisfied with the privileges enjoyed by his Saxon predecessors. At least, he introduced no general tallage comparable to that established by his vassals on their estates. Very likely the reason was that in England the king found ready-made a tax far superior to any enjoyed by his princely contemporaries. The royal geld, originally instituted to buy off the Danes, had become under Cnut a regular impost levied to maintain an army and navy, and even after 1066 it was never feudalized. So, unless specially exempted, all lands in England, whether held by king or by baron, were supposed to be taxed. With a handsome revenue thus largely supplied from the domains of others, the Conqueror could well afford to spare his own the burden of additional exactions.

For a time no essential change was made in the ancient arrangements affecting the boroughs. Except when they had already secured special treatment, they continued to pay geld on their previous ratings. However, some time before 1150, the earlier assessments were set aside and aids at an advanced figure were substituted. The growing wealth and self-sufficiency of the towns began to assert themselves. Even into the reign of Henry II the old *danegeld*, together with the newer *marilia* *burgorum*, continued to be levied, but that energetic ruler proceeded to evolve a new and more profitable set of taxes. From the burhage, alongside the customary *franchal* *aid*, he took *scutage* in place of military service. From his boroughs, and eventually from his domain manors, he exacted special subsidies variously called *dena*, *marilia*, *novia*, and finally *tallage*. Taken at irregular intervals by negotiation with the separate communities, these sums mark an increasing



income over those obtained by Henry I and strikingly attest the efficiency of the Angevin's exploitation.<sup>4</sup>

To match this royal tallage of England contemporary princes in Western Europe had little to show. It was not till the next century that the kings of France, following the example of their vassals, were able to take any decisive steps in its direction. Within each great fief custom normally permitted the lord, lay or ecclesiastic, to levy a subsidy when confronted by some special need. The aids thus taken were arbitrary, rather than fixed, for they were commonly paid by both noble and non-noble tenants. Except on definitely recognized occasions, the tenant could be expected to pay only voluntary contributions, and the effect of municipal charters was to place many towns in somewhat the same advantageous position. But in any case the outcome was not so much a matter of law as of political strength. A weak lord was hardly able to collect even the most regular aids, while the mere request of a powerful prince, no matter what he asked for, could be ill refused. An autonomous city state might dispense with all chartered privileges, but no amount of written guarantees prevented extortion from an actually dependent community. To interpret medieval taxation as following a set of rigid legal principles is to miss the point completely.

In order to get what money he required from an ordinary town the lord had only to negotiate for a grant, emphasizing upon the urgency of his need, emphasizing the benefits accrued from him in the past, and hinting the misfortune that his displeasure might occasion in the future. And if necessary, he was always willing to leave the letter of no prejudice for which his chancery kept a stock of forms on hand. It is true that auxiliary troops or money compositions were occasionally levied from towns, but such a practice could introduce no new principle, for municipal charters commonly restricted military service as well as tallage. If most taxes were levied because of wars, they were none the less taxes. The only way in which the French king,

<sup>4</sup> *Ibid.*, pp. 412-2, 412-3. *Summa* and *moneta* appear in the twelfth century as separate levies on municipal towns: *M.E.S.*, I, 416-417. For the transition to *denarij*, see "The Colpa of the English Town," *J.H.S.*, 1921, 192. A royal or the king's share through will now appear in 2-2-2.

as one of his great vessels, could secure a general subsidy from all his dependents was by negotiating with each important individual or group. From that system to the calling of estates was but a step. How Philip IV and his successors used such meetings for fiscal purposes is quite familiar. And throughout the provinces from Flanders to Milan, whether held by king or count, the same phenomenon occurred. In proportion to its wealth and political solidarity, the bourgeoisie secured power in the central councils.<sup>8</sup>

In Germany the situation was the same. The towns, either free of the old *Heile* or obliged to pay only third sums, were still solicited for extraordinary aids. And again the custom of dealing with such community was in time succeeded by the calling of representative assemblies. Even under Rudolf of Habsburg the *Reichstage* came to send deputies for making a grant to the king, and within another century many territorial diets had appeared in connection with similar practices on the part of the *Landesherrn*.<sup>9</sup>

If now we turn back to England, in spite of all familiar peculiarities, we find a familiar situation. The royal boroughs, it is true, had with slight exception never been exempted from tallage; but in the king's hands that reaction had corresponded rather with the extraordinary aids than with the tolls of the Continent. That the boroughs were as legally liable for the imposition as lawyers could make them is beyond doubt.<sup>10</sup> However, this did not prevent their objecting to the tax. The action of London, to my mind, should be interpreted, not as an appeal to, but as a protest against the law. When, during the reign under John, the city asked that it be exempted from tallage and recognised as having the right to grant its aids, it was merely echoing a demand raised by the bourgeoisie in all quarters. Not, in an age when more villages were securing

<sup>8</sup> *Ibid.*, *supra*, note 1.

<sup>9</sup> *Ibid.*, *supra*, note 2. On the origin of town representation in the Landtag, see H. von Helldorff, *Verfassung und Recht* (Jena, 1889).

<sup>10</sup> There is nothing of the constitution of the Chinese State even distant ideas in being exempt from tallage villages — a theory which some scholars believe to have been dropped from the Chinese. In the thirteenth century the king began levying taxes from what appears to have been a place of tallage or a primitive village, and by the fourteenth century all towns were held liable for taxes either by act or habit (*Ibid.*, *supra*, note 2, 194-5).

such guarantee in France, could one again be expected to end the Londoners' agitation. Indeed, there is plenty of evidence to show that the tallage continued to cause bitter opposition until it was dropped in favor of the new parliamentary grants.<sup>10</sup>

To explain the origin of the House of Commons as a purely financial phenomenon is surely mistaken. Any one who studies the mass of relevant material on the Continent can hardly escape the conclusion that the representation of the towns there was the logical outcome of a new system of taxation — one forced upon princes whose necessary expenditures were far exceeding their ancient sources of income, and one which had grown up with the towns themselves. To say this is not to imply that all representative assemblies were called to grant taxes: the system was obviously useful in many ways. But in proportion as fiscal necessity controlled the later fortunes of the cities, so it must have dominated their creation.

Knowing how both the earlier and later evolution of parliament turned upon matters of taxation, I find it hard to discern that factor as determining Edward I's policy. Even in connection with the creation, the representation of which was the most peculiar feature of the English system, fiscal considerations by no means lie ignored. Many writers on the subject have pointed out that, thanks to the Norman perpetuation and improvement of the ancient shire court, the lesser barons and other freeholders of the kingdom had come to be grouped in legally organized communities, or *communes*. How useful they had been to the king in police, justice, and other local affairs is a commonplace. But was that usefulness in itself enough to account for the knights of the shire as an estate in parliament? I do not think so. By associating them with the other sections of the council, Edward was able to assure the financial support of a very important element in his state, and one which stout heads like would have prevented his taxing. But in this respect, as in all, his policy was distinctly anti-fiscal, and in following it he was not without precedent.<sup>11</sup>

<sup>10</sup> *E. H. R.*, *op. cit.*, pp. 472-73.

<sup>11</sup> The knight had been paid by all grades of landowners, and in recompense it

So, too, while making allowance for the importance of judicial and administrative work, I still feel that the incorporation of the burgesses as a permanent element in the great council was due primarily to the cash which the king was thereby enabled to get. For though he was not legally forced to tax the towns with their consent through deputies, he undoubtedly found it easier to do so. It was a political necessity that faced Edward, as it faced the other princes of the age. Indeed, if any of them had been strong enough, would he not have levied his imposts despotically? We cannot doubt, as M. Pasquet has so well said, that the intractable *Pléiades* were in the problem of parliament working beyond an administrative difficulty.<sup>20</sup> And that he dreamed of recognising constitutional principles, or of setting up national institutions is of course unthinkable.

Nevertheless, to state the king's intentions is not to exhaust the subject. Granting that he consulted only his own interests, we may still inquire more closely how he came to act as he did; may ask what outside circumstances helped to influence his decision. It has been argued that, since many towns regarded parliamentary service as a burden and sought to avoid the expense of sending deputies, their attitude could not have aided to form the basis of representation.<sup>21</sup> But does this conclusion follow from the evidence? For a small community to shirk costly responsibilities was only natural — as long as it had nothing to lose. But such action always presupposed the continuance of the existing system. Though two remained at home, there would still be enough burgesses at Westminster to safeguard all; the parliamentary townsmen were not for a moment desiring a return to arbitrary taxation.

To read back into the Middle Ages the perfected constitutional practices of the nineteenth century is of course a mistake,

Henry II had succeeded from the counties, apparently raised through negotiation with theshire courts. When towns of national importance were more numerous hereafter, it is significant that the county representation was again used to facilitate assessment and collection (*Rotuli Chartarum*, i, 200-1; 202-3; i, 2, 3). Similarly, letters to Taxation under John and Henry III (*Chron. R. Henr.*, 1214), pp. 224, 226; Pasquet, *Origines de la Chambre des Communes*, pp. 26-7.

<sup>20</sup> *Ibid.*, ch. v.

<sup>21</sup> *Ibid.*, pp. 279-280.

In the thirteenth century modern ideas of parliamentary legislation and taxation by majority vote did not exist. Even the groups that later came to be called estates were still inchoate. What the king could not get from a class he might yet take from individuals. Any taxation might be collected as an aid. And in an age when dues were paid by peasants, barons, merchants, villeins, and Jews, to estimate the degree of loss will involved in a given grant is not easy. Nations amounted to nothing and homelands to little more. Between an arbitrary imposition that could be collected only through the cooperation of the papacy and a contribution levied by consent there may have been a world of difference in theory; but there was not much in practice. The force that stayed the hand of the despot was not law, but the resistance, actual or potential, of the subject. Hence, however distinct their legal capacities, the measures adopted by Edward I and Philip IV were remarkably similar.

On ultimate analysis, it seems to me that in the organization of representative institutions in Western Europe we encounter the necessary result of a social revolution. This revolution, the product of a commercial revival, had created a new moneyed class, the support of which proved a decisive factor in the rebuilding of the European monarchies. For intelligent princes were quick to see that they stood to gain infinitely more from the good will of the rising bourgeoisie than from an outworn system of hated taxation. Accordingly, the tallage, together with other obsolete manorial arrangements, was generally abandoned in the towns, and less obnoxious payments were substituted. Especially by means of subsidies called voluntary, seigniorial taxation was not only continued but enormously enhanced. Bourgeoisie and monarchy formed a historic alliance, which, breaking the political dominance of feudalism, eventually produced the modern state. That the men whose wealth had long been the chief reliance of indigent but ambitious princes should be given a voice in the reorganized central councils was quite inevitable.<sup>2</sup>

<sup>2</sup> The object of this essay has not been to prove that feudalism was the only important factor in the evolution of the representative system, but to show that it should not be so

Thus the same statesmanship that in the twelfth century had led to the granting of liberal municipal charters gave the towns representation in the fourteenth. Though the parliamentary system was created by the sovereign for his own convenience, that convenience was largely dictated by his need of taxes.

#### CASE STUDY

It will be found even as it has been in some recent books. It is obvious that a great deal of useful work has still to be done in connection with thirteenth- and fourteenth-century taxation, and more is done before we can hope to understand the beginnings of parliamentary government. It is the object of this study to give a brief history of the development of such taxation from its origin to the present.

## KNIGHT SERVICE IN NORMANDY IN THE THIRTEENTH CENTURY

A study of knight service in Normandy in the thirteenth century shows the continuity of Norman institutions, in spite of the conquest and of separation from England. The French kings were at first content to preserve the rights of their feudal vassals without attempting innovations; the changes that occur during the first part of the century are logical developments, inherent in the system, and it is only toward the end of the period that deliberate interference by the king may be seen.

The general characteristics of the Norman military system are well known.<sup>1</sup> The obligation of military service was a common feature of the bond between vassal and lord; the striking thing in the Norman system was the definiteness of the obligation and its evaluation in terms of the cost of the knight's fee. Each military tenant owed the service of a fixed number of knights for a period of, usually, forty days. The number of knights was probably roughly proportionate to the value of the tenant's holdings, but the fact that the service of the more important lords was measured by solitary groups of five, shows that it had originally no direct connection with definite amounts of land.<sup>2</sup> However with time the fees did become fixed to the land, they could be located geographically, and it was possible to say that a certain piece of land owed a certain amount of service.<sup>3</sup>

The tenants-in-chief followed the same system in their relations with their vassals. They granted land to be held by the service of a definite number of knights and these non-vassals in turn might exercise fealty on the same conditions.<sup>4</sup> In many

<sup>1</sup> H. H. Spong, *Feudal England* (London, 1906), discusses knight service, pp. 202 ff.; G. H. Stobbes, "England and Feudalism," *Edin. R. rev.*, 1910.

<sup>2</sup> Spong, *op. cit.*, p. 202; of the list of Norman tenants in *R.P.*, roll 457-459, where the knight groups are particularly noticeable.

<sup>3</sup> Spong, *op. cit.*, pp. 202 ff.

<sup>4</sup> See the list of barons of the house of Matilda, many of whom had knights holding from them, 1141, in 1906.

cases the service owed the tenant-in-chief was greater than the service they owed the duke; the bishop of Bayeux was not the only one to have five times as many knights as he needed to discharge his obligation.<sup>1</sup>

Not only was the amount of service definitely fixed but it was definitely recorded. Henry I, in 1122 made a list of the knight's fee held of the bishop of Bayeux;<sup>2</sup> Roger of Sicily drew up a record of the service of all his kingdoms a few years later;<sup>3</sup> and Henry III was perhaps influenced by these examples. In 1255 in England, and 1178 in Normandy, he ordered the tenant-in-chief to furnish him a list, not only of the knight's fees they held, but also of the knight's fee held of them,<sup>4</sup> thus creating a complete record of military tenures.

The advantages of the Norman system can best be seen if these lists of Henry II are compared with the lists of fiefs drawn up about the same time in Champagne,<sup>5</sup> and forty or fifty years later in France.<sup>6</sup> In these non-Norman statements of holdings the service is indicated merely by saying that the tenant in *Reims Agiles*, that he owes *servitium* or *opulacionem* or *castell-guard*. The unit of the knight's fee does not appear, and the service seems to be the result of a purely personal relation between the lord and the vassal, not the result of holding land that owed a fixed amount of service. While a wealthy vassal would be expected to bring other knights to the army with him this obligation was not defined and was not recorded.<sup>7</sup>

If any army was to be raised solely by feudal methods and on the basis of feudal service the Norman system gave the best result possible. Such an army was perhaps sufficient for purely defensive operations, especially as in such cases it could be

<sup>1</sup> *Ibid.*, pp. 282-283.

<sup>2</sup> *Ibid.*, p. 282.

<sup>3</sup> Cf. *Est. Ro. Sicilii* & *restit. Siciliae*, 1241, l. 107; *Rolland*, loc. cit.

<sup>4</sup> *R.F.*, roll, 101. The list itself is no longer extant, cf. *R. Roll* (London, 1892), i, 272, 273, 282.

<sup>5</sup> A. Langton, *Comptes républicains de Champagne* (Paris, 1881), vol. 1, 9-12, 22, 23, 24, 25.

<sup>6</sup> Even in 1274, when some of the great French vassals have "service defined" (*R.F.*, roll, 101), many do not list the number of knights they should bring, e.g. the citizens of Compiègne owe 12 knights "selon le service que l'on leur a assigné" (*Ibid.*, p. 189). Cf. p. 189, and p. 770.



reinforced by the *arrhen-lan*, a service vessel, theoretically at least, by all tenants.<sup>12</sup> Even for this purpose it was not entirely satisfactory, owing to the limit of forty days' service, and the prolonged operations outside the duchy it was almost useless. Moreover there was a constant tendency to subdivide the work of the knight's fee, and though this was contrary to the custom<sup>13</sup> it could not be avoided in cases where there were only daughters to inherit. Many fractions appear in the list of 1274, some tenants own only five days' service,<sup>14</sup> and the tenants-in-chief met with the same difficulties in making up their contingents. These tenants of small holdings would be poorly armed, poorly trained farmers rather than soldiers. It was obviously to the sovereign's interest to take money instead of service, and with the money to hire mercenaries, it was often in the interest of the vassal to avoid service by a payment in its place. This commutation of service for money appears early in Normandy, and by 1172 it was well established under the name of *marcbanne* *monnaie*,<sup>15</sup> less frequently *marcbanne*.<sup>16</sup> Each fee paid a certain amount, which varied from 4 to 10 pounds in the aids taken under Richard and John;<sup>17</sup> the tenants-in-chief after paying the king collected from their vassals,<sup>18</sup> who in turn collected from their own sub-vassals.<sup>19</sup> The king received

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<sup>12</sup> *Id.*, *supra*, at 53, 54, as cited in *www.president.gov*, 53, 54, as cited *infra* paragraph 10; 55, as cited in *Id.*, *supra*, at 53, 54, as cited in *www.president.gov*, 53, 54, as cited *infra* paragraph 10.

<sup>14</sup> H.C.F., vol. 1:22-123; L. Delisle, *Recherches de paléographie de l'Europe* (Paris, 1880), pp. 12, 13, 124; note in the first edition of the *Recherches* edition.

<sup>11</sup> *Delgado, Estigarribia*, nos. 479, 502, 479, 502 the signature of Villanueva with his note on the order of payments for "excavation materials" is less binding if to pay for, or "excavate" (see, e.g., "excavation") the.

the right to take service or money as he chose, and those who defaulted when service was asked seem to have paid a fine as well as the cost of a knight to take their place.<sup>17</sup>

Was the aid levied only on the number of fees owed the king, the *servitium debitum*, or on the total number of fees held of the vassal? If the former method was followed, and the tenant took the same amount from each of his fees as was taken for each fee he held, he would have had, in most cases, a tremendous profit. The custom of the thirteenth century specifically forbade such a practice.<sup>18</sup> On the other hand, it is doubtful that the English practice of assessing aid on all the fees, and not solely on the *servitium debitum*,<sup>19</sup> was followed. If such an attempt was made it was not very successful, and the evidence for it is slight. The fact that the tenants of Normandy, like the tenants of England, were asked the number of knights at their service,<sup>20</sup> would seem to indicate the same purpose of increasing the aid by assessing it on all their fees, but there are other possible reasons for demanding this information. The official excuse given in England, that the king wanted the allegiance of the *non-vassals*,<sup>21</sup> may not have been entirely false, and as almost every house was sure to be in the king's hands at some

<sup>17</sup> R.C., 1210, 1211, judgment of count of Flanders 1211, "et cum decem et octo milia capite denarii per servitium militum quam ipsius servitium" (ibid., 1208, notice of Jerusalem, 1212, "proinde decem milia de hoc placuit capite denarii alio denario" (Duchesne, *Chronique*, nos 1209, 1210, *Chronique des rois de France* 1209-1210, *Chronique de Louis IX* 1209-1210, in this Philip III demands the aid of those barons who did not perform service in 1210. The count may have had the right to demand as giving service instead of money, cf. *Brit. Mus.*, 12, 120, where an aid of 100 sh. is levied, but it is quite "quia hoc erat servitium." See however *Chronique*, nos. 121, 122, where a tenant is forced to pay aid.

<sup>18</sup> *Chron. de Angl.*, p. 126, "non majus militum servitium potuit de jure aliquis habere quam illud quod decem vel quatuor feodales pariterant"; p. 72, "et deinde factum fuit taliter feudum quod unus, vel duo, vel tres, vel quatuor, vel quinque feodales milites quod feodum, quatuordecim milites armati quatuordecim milites de illis feodis habuit vel quatuordecim quod feodum de milite collectum."

<sup>19</sup> *Brit. Mus.*, vol. 1, compares the amounts of 1120 (p. 121, 122) and 1174 (p. 121, with the latest fee (p. 120-2). The bishop of London pays for 20 knights in 1120, he actually having collected 1000 in 1120, and pays for 20 plus 100, under protest in 1174. Even in England this increase does not seem to have been an entire success, and in later centuries the aid continued to increase. Thus in 1282 the bishop of Winchester who paid for 24 knights in 1174 (p. 121) pays for only 20 in 1180 (p. 121), and again for only 20 in 1200 (p. 72). The bishop of London liberates service to his old queen in 1200 (p. 72). See however *Brit. Mus.*, vol. 1, pp. 124-5.

<sup>20</sup> R.C., nos. 754, *Brit. Mus.*, 1, 120-2.

<sup>21</sup> *Brit. Mus.*, 1, 121, 122.

these, either by mistake or accident, it was obviously to his interest to know the tenants and the services they owed the lord. In the lists of the county of Champagne, and of France under Philip Augustus, the names of the *ten-vassals* are also given,<sup>10</sup> and here there can be no question of such an attempt to improve the old. A stronger reason for supposing that the change was made is the fact that *homage* in the king's hand paid on their total number of four<sup>11</sup> and not on the services due them, but in such cases the position of both parties was exceptional. On the other hand many tenants paid only for the services due them,<sup>12</sup> and they were numerous enough to make it seem that this was the rule.

It seems probable, then, that the bill was assessed only on the previous delictus, and that the tenant divided the total sum levied among the fees of his service. The bishop of Bayeux followed this practice<sup>20</sup> in raising money from his franchised fees to procure his contingent of ten or twenty knights,<sup>21</sup> and there is

[illegible]

\* This figure, 27.4, is 1000 times the specific conductivity of Sample 23, which is the average of 1000 and 1000000  $\Omega$  centimeters of resistance length; i.e., 1000 times the length of Sample 23 divided by the area of 10000  $\text{cm}^2$ . It, therefore, corresponds with the 1000 ohm  $\text{cm}^2$  term of the list of the lowest in 1970 (Table 1, 1970), where it is stated that this average value also is the true average.

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halliages, and its quality varies according to the abilities of the officials responsible; the list for the Cotentin is clearest and best arranged. In some cases, as the Cotentin, the tenants-in-chief are listed first, and the sub-tenants follow, grouped under the names of which they held; "in others, such as Caen, the number of man-lands is given for each tenant, but their names are given only for the houses in the king's hand." In the halliages of Gloucestre, where the tenants are grouped around the border-castles, the service is often mis-ordered, and the Norman unit of the knight's fee is not always used.<sup>12</sup> This is natural in a border region where the customs vary, and where French rule had been established before the conquest of the rest of Normandy. It is hard to date this list, but the latest entries of the Norman portion seem to be of this.<sup>13</sup>

Apparently the same method was followed that had been employed under Henry II to get the information necessary for the lists. The tenants were surveyed and asked to give charts describing their holdings;<sup>12</sup> those who were absent sent letters,<sup>13</sup> and in doubtful cases inquests were held to decide the number and character of the fees.<sup>14</sup> The earlier list of Henry II must











**Abstract**

<sup>22</sup> Ibid., p. 493. Forson, the service is paid and furnished by Knight's Inn, p. 493. Bladen, Knight's Inn are called but the typically French expression "creation of reputation" is used, p. 494. Bladen, the service is more more French, the word is "service" and the word "creation of reputation" is used, p. 494. And, the "service to service" appears to be the same, they are called the "service."

<sup>21</sup> K. A. F., *Red water*, p. 194, giving *Clavaria Cristallina* in 1883, and in 1895 in *Ann. de Montcalm*. It 1895 was treated, *ibid.*, 1895, 189 and 189. The introduction of the *Montcalm* fungus from the army in 1895 is treated, p. 402. Note is taken on a list of *Ann. de la Forêt*, p. 110, and in 1895 from collected data with Louis F. H. the *Quadrangula*. (See footnote on 1895, p. 189).

<sup>17</sup> F. F., 1900, 1917, *Memories of Longshoremen* (which is a list and various himself if he has forgotten anything), p. 100. <sup>18</sup> Robertus Barman suggests good ideas (drawing upon previous names) ... and sometimes will spend hours (sometimes 20 min. at a time) ... about the "Penthouse" and the "Lighthouse" and "Jacks".

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<sup>10</sup> *Ibid.*, p. 228, "Unan de Belle France nous rendent après Belle France et . . . [et nous] . . . par tout d'un acclamation." P. 229 the list of biological specimens in the *Mémoires des Voyageurs* ends "tous les végétaux trouvés par le capitaine Pélissier de Belle France, Adrien de Belle France [à l'ouest de Gallinas] Adrien de Chénier et Adrien de Chénier."

have been used as a basis, for in several cases this is recorded with the statement that the tenants deny the service.<sup>22</sup>

As a result of the confiscation of the land of John's adherents many fiefs, including some of the greatest honors of Normandy, were in the king's hand, and in his numerous grants of these lands Philip preserved the obligation of knight service. There is almost always a provision that the land is to be held "ad usum et necessitudinem Normannie, ad servitium quod feoda debet."<sup>23</sup> and in many cases it is possible to show that these grants were entered on the list of knight's fees and that service was later required from them.<sup>24</sup> In another type of donation Philip specified the amount of service to be given, either because he had formed a new group of lands, or to lessen the burden of the tenant, and here again the service was not forgotten.<sup>25</sup>

The system was still strong in the case of vassals who held directly of the king, but it was beginning to weaken in respect to the rear-vassals. Most of them had lost their military character as a result of giving aid instead of service, and by the middle of the century the Norman law made a distinction between the vassals who owed merely payment, and those who could be sent to the army.<sup>26</sup> This distinction can already be

<sup>22</sup> H.F., vol. I, 1, "Petersons Aichewels entrent feoda de quibus nullus servit"; p. 122, "Philippe de Barroigne des feoda de feods feodales legier et non legier et des feods de vassals pp. 121, 124.

<sup>23</sup> Cart. normand, nos. 102, 104, 105, 126, 127, etc. It should be noticed that in this form the grant is for fief or fiefs, in which an annual payment takes the place of all services except that they become necessitudinem infra 10. Louis. See nos. 176, 184, 195.

<sup>24</sup> H. A.N., fol. 107, v. 1, 127, Jean de Barroigne granted the feoda of Roger le Bigot to the value of 1200 for "servitium quoddam feoda debet." H.F., vol. 190, "Petersons de Barroigne debet servitium fieforum villanorum terre Roger Bigot." Against an earlier condition was made by Pagan de Hildesheim to 1020 (Cart. normand, no. 105), it is listed under Philip Augustus as owing 1 to knights (H.F., nos. 221, 222), and in 1274 Pagan de Hildesheim made a feoda (feodale legier) service for 10, but H.F., vol. 192. Cart. normand, no. 1200, feodale de feod (feodale legier) feodale "feodale" "petersons quod ad debet ad usum et necessitudinem Normannie" and in 1274 the same "feoda de vassals pro vna feoda, servitium fieforum de feoda" H.F., vol. 192.

<sup>25</sup> Cart. normand, p. 126, no. 126, Augustus gave Henry Clement for the service of 4 knights. H.F., vol. 173, the feod of Augustus made four knights for the group of 1024, and it is established between vassals. H. A.N., fol. 107, v. 1, 127-127, several grants for service of one or more knights, e.g., Ranier Castellus gave Ponsardus in contrast for service of 100 knights. H.F., vol. 192, 126, no. 126, recorded that, p. 173, a Ranier Castellus made two knights to the army.

<sup>26</sup> Chronique de Philippe, p. 126 "servitium fieforum ad quod profectus feoda feoda servitium servitium debet, servitium quod debet fiefum fiefum, quod, vna servitium servitium." This distinction was referred to by a decision of Parliament in 1275. See also, ed. 1, Reg.

seen in the rolls of Philip Augustus; there are many fiefs whose service is expressed in the terms of the aid they pay,<sup>10</sup> and others which are said to owe the king a knight per annum domini.<sup>11</sup> This distinction seems to be the result of special arrangements between tenants-in-chief and their vassals; thus the lord of the bishop of Bayeux, though they habitually paid aid,<sup>12</sup> were grouped by three to furnish one knight to the king.<sup>13</sup> In another case we find that one knight's fee for the king's service is composed of two fiefs of the bishop of Arras;<sup>14</sup> and there are several other entries in the rolls of Philip Augustus which indicate similar combinations.<sup>15</sup> In other cases the tenant-in-chief either preferred to find the knight himself and take aid from all his fiefs, or was unable to form groups owing a knight to the king because his vassals' holdings were too small. The abbot of Mont-Saint-Eloi was able to get his vassals to furnish all but one of his knights, but one fee was so badly cut up that he took service from it instead.<sup>16</sup>

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■ *How often, under 10, and 10+ years, 1991-1992, 1993-1994, 1995-1996, 1997-1998, 1999-2000*

<sup>24</sup> J.F., coll. 614, "une multitude que menait le dieu d'Israël par ses bras étendus devant eux comme un roi", 614. Jura de la Fata avec les deux à l'origine "par ses bras étendus devant eux".

<sup>10</sup> For example, note the shift in English, *El Periódico*, nos. 89, 90, 107, 108, 109, 110, 111, 112, where the English name is not used.

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<sup>10</sup> Collins, *Endpapers*, esp. 174. Hunt in *Reading Room* for not identifying a weight for *Reading's* notes by the Village of Ipswiches (177), 202, 208. Hunt notes a weight is from a *Journal*.

19. *U. P.*, 1959, 1960. "Recherches de Zoogeographie et ornithologique. Faune de l'Algérie, et ad) ornithologie. Faune de 10 millions. 221. 222. 223. 224. 225. 226. 227. 228. 229. 230. 231. 232. 233. 234. 235. 236. 237. 238. 239. 240. 241. 242. 243. 244. 245. 246. 247. 248. 249. 250. 251. 252. 253. 254. 255. 256. 257. 258. 259. 260. 261. 262. 263. 264. 265. 266. 267. 268. 269. 270. 271. 272. 273. 274. 275. 276. 277. 278. 279. 280. 281. 282. 283. 284. 285. 286. 287. 288. 289. 290. 291. 292. 293. 294. 295. 296. 297. 298. 299. 300. 301. 302. 303. 304. 305. 306. 307. 308. 309. 310. 311. 312. 313. 314. 315. 316. 317. 318. 319. 320. 321. 322. 323. 324. 325. 326. 327. 328. 329. 330. 331. 332. 333. 334. 335. 336. 337. 338. 339. 340. 341. 342. 343. 344. 345. 346. 347. 348. 349. 350. 351. 352. 353. 354. 355. 356. 357. 358. 359. 360. 361. 362. 363. 364. 365. 366. 367. 368. 369. 370. 371. 372. 373. 374. 375. 376. 377. 378. 379. 380. 381. 382. 383. 384. 385. 386. 387. 388. 389. 390. 391. 392. 393. 394. 395. 396. 397. 398. 399. 400. 401. 402. 403. 404. 405. 406. 407. 408. 409. 410. 411. 412. 413. 414. 415. 416. 417. 418. 419. 420. 421. 422. 423. 424. 425. 426. 427. 428. 429. 430. 431. 432. 433. 434. 435. 436. 437. 438. 439. 440. 441. 442. 443. 444. 445. 446. 447. 448. 449. 450. 451. 452. 453. 454. 455. 456. 457. 458. 459. 460. 461. 462. 463. 464. 465. 466. 467. 468. 469. 470. 471. 472. 473. 474. 475. 476. 477. 478. 479. 480. 481. 482. 483. 484. 485. 486. 487. 488. 489. 490. 491. 492. 493. 494. 495. 496. 497. 498. 499. 500. 501. 502. 503. 504. 505. 506. 507. 508. 509. 510. 511. 512. 513. 514. 515. 516. 517. 518. 519. 520. 521. 522. 523. 524. 525. 526. 527. 528. 529. 530. 531. 532. 533. 534. 535. 536. 537. 538. 539. 540. 541. 542. 543. 544. 545. 546. 547. 548. 549. 550. 551. 552. 553. 554. 555. 556. 557. 558. 559. 560. 561. 562. 563. 564. 565. 566. 567. 568. 569. 570. 571. 572. 573. 574. 575. 576. 577. 578. 579. 580. 581. 582. 583. 584. 585. 586. 587. 588. 589. 590. 591. 592. 593. 594. 595. 596. 597. 598. 599. 600. 601. 602. 603. 604. 605. 606. 607. 608. 609. 610. 611. 612. 613. 614. 615. 616. 617. 618. 619. 620. 621. 622. 623. 624. 625. 626. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636. 637. 638. 639. 640. 641. 642. 643. 644. 645. 646. 647. 648. 649. 650. 651. 652. 653. 654. 655. 656. 657. 658. 659. 660. 661. 662. 663. 664. 665. 666. 667. 668. 669. 670. 671. 672. 673. 674. 675. 676. 677. 678. 679. 680. 681. 682. 683. 684. 685. 686. 687. 688. 689. 690. 691. 692. 693. 694. 695. 696. 697. 698. 699. 700. 701. 702. 703. 704. 705. 706. 707. 708. 709. 710. 711. 712. 713. 714. 715. 716. 717. 718. 719. 720. 721. 722. 723. 724. 725. 726. 727. 728. 729. 730. 731. 732. 733. 734. 735. 736. 737. 738. 739. 740. 741. 742. 743. 744. 745. 746. 747. 748. 749. 750. 751. 752. 753. 754. 755. 756. 757. 758. 759. 760. 761. 762. 763. 764. 765. 766. 767. 768. 769. 770. 771. 772. 773. 774. 775. 776. 777. 778. 779. 780. 781. 782. 783. 784. 785. 786. 787. 788. 789. 790. 791. 792. 793. 794. 795. 796. 797. 798. 799. 800. 801. 802. 803. 804. 805. 806. 807. 808. 809. 810. 811. 812. 813. 814. 815. 816. 817. 818. 819. 820. 821. 822. 823. 824. 825. 826. 827. 828. 829. 830. 831. 832. 833. 834. 835. 836. 837. 838. 839. 840. 841. 842. 843. 844. 845. 846. 847. 848. 849. 850. 851. 852. 853. 854. 855. 856. 857. 858. 859. 860. 861. 862. 863. 864. 865. 866. 867. 868. 869. 870. 871. 872. 873. 874. 875. 876. 877. 878. 879. 880. 881. 882. 883. 884. 885. 886. 887. 888. 889. 890. 891. 892. 893. 894. 895. 896. 897. 898. 899. 900. 901. 902. 903. 904. 905. 906. 907. 908. 909. 910. 911. 912. 913. 914. 915. 916. 917. 918. 919. 920. 921. 922. 923. 924. 925. 926. 927. 928. 929. 930. 931. 932. 933. 934. 935. 936. 937. 938. 939. 940. 941. 942. 943. 944. 945. 946. 947. 948. 949. 950. 951. 952. 953. 954. 955. 956. 957. 958. 959. 960. 961. 962. 963. 964. 965. 966. 967. 968. 969. 970. 971. 972. 973. 974. 975. 976. 977. 978. 979. 980. 981. 982. 983. 984. 985. 986. 987. 988. 989. 990. 991. 992. 993. 994. 995. 996. 997. 998. 999. 1000. 1001. 1002. 1003. 1004. 1005. 1006. 1007. 1008. 1009. 1010. 1011. 1012. 1013. 1014. 1015. 1016. 1017. 1018. 1019. 1020. 1021. 1022.

<sup>8</sup> Ibid., p. 17; "Quelques-uns des plus beaux temples de France et de la Savoie," *Revue française d'architecture religieuse* (Paris), 1907, p. 704. Saint-Nicolas-Martin has structures at Nancy and Neuchâtel.

When a tenant-armed sword actual service to the king through his lord he became entirely responsible for that service and had to pay any penalties inflicted on the lord for his default.<sup>10</sup> This would not be the case if his holding-owed only aid, and by reason of incidents the king himself had vassals from whom he could not require service.<sup>11</sup>

Not only were the tenants-in-chief unable to require actual military service from many of their vassals, but often the latter tried to escape from the obligation of giving aid. They were aided by the numerous changes and by the confusion resulting from the conquest and the confusions which followed it. The records of the Exchequer are full of complaints of lords against vassals who were withholding aid or service, and in almost every case the decision is in favour of the lords.<sup>12</sup>

The Norman tenants were called on frequently during the first half of the thirteenth century for military service. The bishop of Bayeux won a case regarding army aid in 1197<sup>13</sup> which would indicate a summons shortly before, as aid could be levied on subtenants only after service had been given the king.<sup>14</sup> There are two rolls for aid in 1198; in one the king is the plaintiff, in the other the aid is evidently for that year, as the tenant is ordered to pay the same aid that she paid in 1111.<sup>15</sup> Two lords prove their right to aid or service in 1112 and 1120, but it is not certain that this refers to a new levy.<sup>16</sup> A case in the Exchequer of Easter, 1171, states that the bishop of Poitiers had been summoned for service shortly before,<sup>17</sup> and Mont-Saint-Michel won three claims for knight service in the autumn of

<sup>10</sup> *Britton, Rolloquia*, no. 200: a knight who defaults on his service to the king must through a lord pay the fine inflicted on the lord for his default; nos. 179 and 491, examples of this position.

<sup>11</sup> See the list of the challenges of Count in the month for the army of Poitiers of 1155, where many tenants claim that they owe aid only: *R.F.*, 102, 103.

<sup>12</sup> *Britton, Rolloquia*, nos. 24, 25, 104, 105, 401, 402, 403, 404, 411, 405, 406, and 407. In many of these cases the justice of the lord's claim may be established by comparison with the lists of 1174 and those of Philip-Augustus.

<sup>13</sup> *Ibid.*, no. 38.

<sup>14</sup> *Deane de Louche*, p. 126; *Cost. normand*, no. 461.

<sup>15</sup> *Britton, Rolloquia*, nos. 24, 104.

<sup>16</sup> *Ibid.*, nos. 104, 105.

<sup>17</sup> *Britton, Rolloquia*, no. 314: see also nos. 309, and 313, which refer to aid before aid service.



1217 and 1218.<sup>54</sup> The bishop of Avranches was fined for the default of a knight and collected the fine from the defaulter in the Easter term of 1222,<sup>55</sup> the abbot of the Moutier was a similar case in 1217.<sup>56</sup> Several tenants sue for aid in 1220 and 1222, probably in connection with the campaign against Brittany in 1222.<sup>57</sup> We have the lists of the political barons summoned in 1222, 1224, and 1228, and a record of their service in 1224.<sup>58</sup> There exists also a record of the service given by Mont Saint-Michel in 1225, in answer to a summons that was sent per Normanniam,<sup>59</sup> and two complaints of the Gervinians seem to refer to an aid taken in that year.<sup>60</sup>

The king retained the right to take knight service, or money, as he chose,<sup>74</sup> but the absence of financial records makes it impossible to determine the number of those who paid aid, and the amount of aid paid per fee. As has been shown above, important tenants, such as the bishops, were regularly summoned to send knights, but a large portion of the tenants must have given aid instead, to judge by the small number of knights that appear in the *Novis de Foremarchia* of 1244.<sup>75</sup> As to the amount, the aid of five pounds was taken as the type in the lists of Philip-Augustus,<sup>76</sup> and remained the rule in at least one district, Evesham.<sup>77</sup> On the other hand we know from several sources that the wages of a knight were ten shillings a day, or twenty

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<sup>42</sup> *Statute, Michigan*, no. 105; see *W.P. Smith*, 1899, no. 14, no longer on the record and "nothing recorded" until the 1910s; see *The Record in the same year*.

• **Wavelength:** The distance between two consecutive peaks or troughs of a wave.

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1. **Introduction**  
 2. **Background**  
 3. **Methodology**  
 4. **Results**  
 5. **Conclusion**  
 6. **References**

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<sup>12</sup> B.F., *supra* note 4, at 100-101. The latter says that "without exception" the law is silent on the issue of nonconsent (100-101).

<sup>10</sup> E.F. note, "181, no. 15," "a very beautiful and useful paper, however, for various medicinal purposes, given in doses . . ." and, "181, no. 16," "prepared powder very disagreeable, except the addition of the following . . ."

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<sup>14</sup> *Crutcher, Gallagher, et al.*, 797, as interpreted by *Stevens* in 1988 declares that every child in the US is challenged at some

pounds for the forty-day period of service,<sup>14</sup> and the sum of twenty-five pounds paid by the bishop of Avranches and the abbot of the Mount<sup>15</sup> for default of a knight would indicate an aid of twenty pounds plus a five-pound fine.

For the campaign of 1177 against the count of Flanders the records are more complete; we have a list of those summoned to appear at Tours, a list of those who appeared, and a final list of those who actually went with the army.<sup>16</sup> This allows a comparison with the service due under Henry II and Philip Augustus, and in many cases we find that the number of knights owed has remained the same during the interval of one hundred years. The abbot of Hamigny owed three knights in 1178, and under Philip Augustus, and three knights appear for him in 1177.<sup>17</sup> The bishop of Bayeux owed ten knights for service outside of Normandy in 1132, 1178, and 1198, and sends ten knights to Tours.<sup>18</sup> The five knights of the banner of Bréquerbec, and the three knights of Torbec also appear in all the lists.<sup>19</sup> In other cases where the number of knights is less than the old services, additum the reason for the decrease can be found. Thus Mont-Saint-Michel owed seven knights in 1178 and only five appear in the army of Flanders<sup>20</sup> but from a comparison of the lists of service made by the abbot in 1179 and 1244<sup>21</sup> we see that the two missing fees were held by the earl of Chester, Guillaume de Saint-Pierre, and Raoul de Fougères. The lands of the first two were seized by Philip after the conquest,<sup>22</sup> and Raoul's holdings, confiscated during the troubles with Brittany, were perhaps not fully restored.<sup>23</sup> The bishop of

<sup>14</sup> *H.P.*, vol. 120, pt. 2, no. 106, a knight aids 100 lbs. for service of 40 days in the Mediterranean campaign of 1180; *ibid.*, no. 107, a knight aids 100 lbs. for 40 days' service by himself and a vassal; *H.P.*, vol. 121, the abbot of the Mount takes 100 lbs. for his knight in 1192; a later confirmation of this right for abbeys is discussed in the essay. See J. B. Moore, *What Were of Edward I* (London, 1901), p. 16. The rule in England was slightly less the morning's duty.

<sup>15</sup> *Rotuli, Philippus*, nos. 775, 498. In the reference referred to above the fine for default is 100.

<sup>16</sup> *H.P.*, vol. 121, nos 2, nos 3, nos 4. From these a final list of service owed was made, a fragment of which may be found in *H.P.*, 125, no. 2030.

<sup>17</sup> *H.P.*, vol. 121, nos. 702 and 703.

<sup>18</sup> *ibid.*, nos. 404, 708, 712.

<sup>19</sup> *ibid.*, nos. 404, 406, 717, and 405, 718, 719.

<sup>20</sup> *ibid.*, nos. 405, 718, 720.

<sup>21</sup> *ibid.*, nos. 728, 771.

<sup>22</sup> *ibid.*, pp. 767, 812.

<sup>23</sup> Earl's Record, nos. 108-109.

Catharac was renewed the service of one of his five knights in 1188 because the fee was in the king's hands.<sup>10</sup> County Lincres was allowed to drop a knight because of a forfeiture.<sup>11</sup> The barony of Saint-flaume, which owed five knights in 1172, owed only four, but it is noted that the barony is not whole.<sup>12</sup> Other reductions are due to the fact that some vassals preferred to pay a fine rather than render service, especially if they did not have many tenants who owed knights for the king's service. Thus in the Cotentin, the only holdings where the vassals give the number of fees, the holdings total 52 knights, which is slightly more than the number held by tenants-in-chief under Philip Augustus,<sup>13</sup> but the service given is 20.<sup>14</sup> In Caen 154 fees are mentioned, only 56 appear at Tours, and 44 of these claim that they owe *aid alone*. They apparently won their point, for only 22 men appear in the final list.<sup>15</sup> Many of the knights who appear for the tenants-in-chief are obviously those whose fees were *instituta ad servitium decurie*,<sup>16</sup> and who could not escape by paying *aid*.<sup>17</sup> This would explain why a tenant such as the bishop of Lisieux owed only three knights of the twenty he owed; these are the only ones who owe service to the king through his hand.<sup>18</sup>

*Encheus* to the king and fees paying *aid alone* have reduced the size of the contingents noticeably. Under Henry II groups of ten and fifteen knights were not uncommon; in 1172 the bishops of Bayeux and Avranches are the only tenants to send more than five and the group of five is unusual. It is interesting to note that the same decrease in the size of the groups

<sup>10</sup> *Cart. norm.*, no. 481.

<sup>11</sup> *R.P.*, vol. VII.

<sup>12</sup> *Cart.*, pp. 494, 495, 704.

<sup>13</sup> *Cart.*, pp. 704, 698, 692. (At this time a separate holding.)

<sup>14</sup> *Cart.*, p. 704.

<sup>15</sup> *Cart.*, pp. 704, 705, 770.

<sup>16</sup> *Summa de feodis*, p. 430.

<sup>17</sup> *R.P.*, vol. VII, "Vassales Catharac de Gisors qui dedit Catharac militem suum de feo proprio ad hoc servitium militem XI, etc."; cf. *Cart.*, p. 716 "Adm. Ricard. Angl. Catharac suum militem suum feodum suum dedit Ricard. de feo suo de quo" ; *Cart.*, p. 770 "Catharac de Gisors qui dedit Ricard. de feo suo dedit Ricard. militem suum ad hoc servitium suum militem" ; *Cart.*, p. 704, Catharac de Gisors appears for the barony of Yvetot, and p. 698, a man of the same name holds of Thomas under Philip Augustus.

<sup>18</sup> *Cart.*, pp. 694-695, 770-771, the tenants for all three knights is "Lisieux comes militem tres pro feodis." *Cart.*, p. 704, service of 1184, the bishop owed only three knights.



army paid one fifth of the value of their land.<sup>10</sup> Thus the knight's fee lost its value as a feudal unit after having ceased to be a military unit, and remained only as a formula of land-holding.

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<sup>10</sup> R.F., vol. III. The total assessed in Germany in 1200 was £16,700,000, 12.



## CENSUS DE REBUS IN THE CAPITULARIES

The problem of the survival of Roman land-taxes into the middle ages has been the subject of many studies during the last century,<sup>1</sup> resulting in a fairly firm doctrine on many points. It is now generally held that these taxes, although surviving only in partial measure, maintained their basic character into the ninth century. Just what happened after that is less certain and has been less closely investigated. The present doctrine seems to have been laid down by Champollion-Figeac,<sup>2</sup> and later writers content themselves with restating his thesis.<sup>3</sup> This theory maintains that there is a connection between the Roman *census*, a land-tax, and the feudal *cens*, a payment recognitive of tenure; the continuous use of the term *thang* covers the transformation of a tax into an economic rent. Apart from the effect of immunity charters,<sup>4</sup> the process of transformation is supposed to have been due largely to the transformation of villas into lordships, and to have taken place in the early feudal period when these lordships were forming out of the debris of local administration. Sources for this period are few, and the process can be reconstructed only in outline, by hypothesis.

<sup>1</sup> For the most recent and in many respects the most comprehensive study, cf. Professor Ferdinand Lot, *L'impôt foncier et le capitulaire* (probably now in the copies at St. Emmeran, Einsiedeln, Zürich, 1935). For bibliography of earlier works, cf. H. Brunner, *Feudale Gesellschaften*, 2<sup>nd</sup> edition, Munich and Leipzig, 1909, 278.

<sup>2</sup> In his important study of feudal institutions under the misleading title *De la propriété des terres féodales* (Paris, 1840), pp. 282-283.

<sup>3</sup> Foddy, Foddy, Maitland, Leachman, Fodman and others, mostly in their own way. For a recent and characteristic statement of the theory, see H. Chodron-Schönbrunn, *Grundriss der mittelalterlichen Geschichte* (Leipzig, 1909), I, 265. As far as I know, the extremely difficult investigation of the relation between ninth-century taxes and thirteenth-century taxes has not been pushed much further since Champollion-Figeac.

<sup>4</sup> The immunity is regarded very generally as having aided in transforming land-taxes of tenants into rents, cf. Chodron, op. cit. I, 265. The argument seems to me rather dubious, for it depends on whether or not tenants paid the land-tax before immunity was granted. If they did not, then the immunity would not have abolished their liability. That the Roman tenant did not pay the land-tax on his holding is fairly clear, cf. Lot, *Feudale Gesellschaften*, pp. 42-73, and the present writer's notice in *Archiv für Rechtsgeschichte* 2 (1907) (Frederic House, 1907), pp. 278-280. The writer has studied the problem in detail, not only references to Egyptian practice as well as to Roman, but those in the Harvard Library, MS. 49.10.1 (1907).





five years later the same principle is enunciated in a capitulary of Louis the Pious: "In terra tributaria. If any one shall convey terra tributaria, whose tributum was wont to be paid us, to a church or to any one, the person receiving the land must by all means pay the accustomed tributum unless he have such documentary proof from us as to show that the said tributum has been relaxed in his case."<sup>12</sup> The close resemblance between these texts is apparent; there would seem to be no basis for making a distinction between comar and tributum.<sup>13</sup> The same rule is repeated, finally, by capitulary of Charles the Bald.<sup>14</sup>

Under the prevailing interpretation of these laws, owners and holders donate land-taxes.<sup>46</sup> The rule would be proof of the survival of land-taxes, in some measure, from the Ming-ching period, and evidence of the government's desire to check the loss incurred when tax-paying property passed to revolutionary hands, so often relieving immunity.

If cancer and leukemia do represent localities, then by general consent this rule of 811-815 would have an obvious bearing on the immunity. To indicate exactly what this relation would be, let us review certain fundamental points of the immune response.

<sup>10</sup> Ibid., p. 207, n. 11: "No longer traditional, 'Schwermut' became self-doubting, self-reflexive and perhaps even more so, self-loathing, and as evidence of certain ultra-modernity it was more completely defined as good little self-loathing meant under all previous moderns (perhaps), it's little better than the last of the post-structuralist school, for again, again, little more, the modernist was never concerned." The idea of the modernist is new.

\* A distinction is drawn by A. Popper, *Die Wissenschaftstheorie der Soziologie*, 1961, 2nd edition (Potsdam, 1963-64), p. 194. According to him, some scholars in social fields are 'surface thinkers'. Quoted in Freeman, op. cit., p. 103, note 26 (see footnote 10 above).

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is misleading statement of the relationship in the *Ballroom Blues*, 494, 495, 5, 192, n. 45. That statement, however, provides explicit text features which point toward misinterpretation and cannot be dealt with here (cf. post-note 19). There is no mention of *Blackboard Jungle*.

<sup>17</sup> Cf. among others, J. Dumas, "Quelques observations sur la parole et la poésie par rapport à l'usage intelligemment," *Œuvres complètes de Jean-François de Saussure*, 2<sup>e</sup> édition, t. 1, 180-181, F. Delrieu, *Œuvres de Saussure* (Lausanne: Slatkine, 1989), vol. 1, p. 180-181. (Quoted hereafter as *ŒS*).

In the first place, property enjoying the advantages of immunity was freed from all public obligations of a financial order.<sup>17</sup> *Assens domi* were, to be sure, paid by the noblesse, lay and ecclesiastic, but these dues had the character of personal payments and are supposed to have originated in voluntary gifts. Their development into regular levies constituting a real tax took place after the immunity assumed its form, and took place outside the sphere of immunity grants.<sup>18</sup> A second fundamental characteristic of the immunity was that the exemptions and liberties granted were applicable to all persons shown and acquisitions, past and future. The charters show wide variations in expressing this principle. A formula of Marcell extends the immunity to "villas . . . quas modernis temporibus noscitur et coluntur, necnon habere villas, vel quas domos in hunc ipsius modum habuerit divites potius amplius."<sup>19</sup> A more expansive charter elaborates the possibilities: "nam quod per preceptionem vel indulgentiam seu concessione regum vel a christianis hominibus siquae diversis contraxerunt per quibuscunque instrumentis cartarum . . . facti collatum vel delegatum vel in futuro tempore addendum vel delegandum. . . ."<sup>20</sup> Still another charter extends the immunity to lands gained "ex concessione regum vel reginarum vel id quod per conditiones commercialium consensu libere vel per quibet instrumenta cartarum. . . ."<sup>21</sup> The term of inter-

<sup>17</sup> This generally held rule in the Carolingian period is expressed. As regards the Alamans, Marcell presents a clear example: "omni satisfactione in confirmatione que the immunity did not have the possibility from now on the future person unless a sign of the nature was made of final release" (H. Marcell, *Charter of Marcell* (Paris, 1894), pp. 101-102). But Lefflein has recently stated an other view, and strongly supported by the effect that the immunity gave out of the Roman conception of immunity and was therefore primarily an exemption from taxes. A charter of Marcell could be a new immunity and in addition it was a charter of the immunity, which was a sign of the nature of the immunity (Lefflein, *Die Immunität* (Leipzig, 1904), pp. 11-12).

<sup>18</sup> H. Marcell, p. 101, 102, *Capitulum*, p. 101, and E. Lefflein, *Die Immunität* (Leipzig, 1904), pp. 11-12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

<sup>18</sup> Marcell I, no. 8, in M.H.B., *Leges Saxonum* I, 10.

<sup>19</sup> The confirmation of immunity for the Abbey of Trier, in M.H.B., *Leges Saxonum* I, 10, no. 10, of the year 800. It is noteworthy that the text in the *Leges Saxonum* for the confirmation of the immunity of the Abbey of Trier, ed. H. Heyne (Leipzig, 1894), I, 10, no. 10.

<sup>20</sup> M.H.B., *Leges Saxonum*, I, 10, no. 10, for Trier in 793. The most detailed

tion which these various provisions disclose was evidently to extend immunity privileges to all possessions of the favored foundation.<sup>17</sup> Retraints or extensions of the immunity were therefore unnecessary in case of further acquisitions.

When the rule of §11-§12 is considered in relation to these points, its import stands out clearly. Referring to land-taxes, that rule would constitute a serious modification of the effects of an immunity and would mark a departure from one of the oldest principles embodied in such grants. Once denoting, perhaps primarily, exemption from public obligations, the immunity would no longer apply to acquisitions of tax-paying land. But if the rule of §11-§12 had no marked an effect, then several matters demand explanation.

There is, in the first place, the fact that the rule as stated gives no impression of effecting an innovation. On the contrary, the rule is put in a bald, matter-of-fact form which suggests the confirmation of established practice that needs no comment.<sup>18</sup> Indeed, as stated in the *Capitulum de Justitia Jurisdictio*, the injunction is retrospective; if the rule were to be applied to all past acquisitions of non-tax-paying lands the result would be difficulties in administration, to which, however, the enactment seems indifferent.

In the statement of §14, the style is such as to involve positive confusion. The rule shall apply, it is stated, except where the recipient of non-tax-paying lands has a *privilegium* to show that such payments are assessed. Apparently, an immunity charter would constitute exactly such a *privilegium*. Not all ecclesiastical foundations enjoyed immunity,<sup>19</sup> and moreover the statement of §12 applies the rule to persons to a church or

chapter is this word is perhaps an immunity of Charles the Bold of no. 145 in *H.F.*, vol. 101, no. 16.

<sup>17</sup> This conclusion seems to be in line with the general treatment of policies on the point of St. Pierre, *Chartes de Prébendes*, in *Les chartes de St. Pierre*, 1900, 190-191; T. F. Slater, "Petition on *Wynemore*," *Transactions of the Historical Association for the County of Devon*, 1910, 111-112; *Chartes de St. Pierre*, 1900, 190-191, p. 191.

<sup>18</sup> The recipients of land which had paid a census are given the option of making their payments or of retaining the lands at the terms of the former census. The latter provision, however, it seems to me, implies that the whole acquisition is novel. Such a provision itself could very well have been an old rule.

<sup>19</sup> St. Paul is a notable case in point. The immunity was acquired under Louis the

"to any man"; hence the text would make perfectly good sense if the *beneficia* demanded were an immunity charter. That the immunity did not meet the requirements we can see from some Kempton charters. Kempton received immunity under Charlemagne.<sup>10</sup> Yet in 824 Kempton asked for and received a charter<sup>11</sup> which states that during the reign of Charlemagne and Louis some ninety-six *hubs* had been conveyed to the monastery by freemen from various districts, and that a census of *publicum* had been paid from these *hubs*; Louis confirms these properties to the monastery<sup>12</sup> and also rules the census in question. This case shows the working of the rule of 811-812 and shows that an immunity was no bar to the rule. But that fact is far from obvious in the rule itself!

We are thus led inevitably to a further and more fundamental question; why, if the rule of 811-812 made a change in the effect and scope of an immunity, is the immunity never mentioned? Such mention would seem not only natural but almost necessary in order to avoid confusion, particularly in the case of the statement of 818, with its ambiguous *beneficia*. Yet, though the rule is stated and repeated four times in varying phrases, not once is there the slightest allusion to the immunity, or the slightest indication that the rule means the content of the immunity privilege.

Reference to the immunity would be expected, and would be easy to make; a simple non-obstante immunitate would suffice. And in other cases where capitulary enactment affects the immunity, an *omnes* as vital as *omnes*, the capitulary texts are wont to note the fact. For example, the immunity did not free the inhabitants of a territory from certain public services such as road and bridge work.<sup>13</sup> *Propter*, declaring the

Flodo. Th. Arel., "Et. Gallia ante des. ante Karolum," *Walthampten* in *Anglo-Saxon Chronicle*, iv, 1-16.

<sup>10</sup> Remission of tithes and immunities seem to have ceased long before the ninth century. Krail, p. 135.

<sup>11</sup> Given by the confirmation of Louis the Pious in 824. *Monumenta Histor. anal.*, 2, 11. *Salman-Walthampten. De dignitate et immunitate ante des. Karolum*, 712-713, Ed. ed. in *Frankfurt*, 1889-1890, 1, 112, no. 122.

<sup>12</sup> *Monumenta Histor. anal.*, 2, no. 46. *Salman, Augustus*, 1, 112, no. 122.

<sup>13</sup> "omnes/hubs alios communitas communis-maintenance."

<sup>14</sup> Krail, p. 135.

general liability of subjects for such services, is careful to add that an immunity is no bar to their performance.<sup>12</sup> An Italian capitulary of Lodiain may also be cited here.<sup>13</sup> The ruler states that those who robe their lands to a church with the fraudulent intent of escaping public burdens (ob vilisimo reipublice utilitatem) must nevertheless perform the requisite services (honore et reliquis publicis functionibus factis).<sup>14</sup> If those services are not rendered, the counts may use compulsion to secure performance. This injunction is liable to cause trouble on account of the clause in immunities which forbids a count to enter immune territories and to lay districts therein; the capitulary is careful to add "notwithstanding our immunity."<sup>15</sup>

And finally, if it is hard to understand why the various statements of the rule of 812-813 fail to mention immunities, it is equally difficult to explain the noteworthy failure of the immunity charters themselves to register any effect of this rule. If errors and omissions in our texts obscure texts, then the effects of the immunity have been changed and restricted on an important point if not on a central feature of the privilege.<sup>16</sup>

Though tending to become stereotyped, the immunity charters after 814 still offer numbers of variant and independent forms, and are still marked by occasional additions of detail on matters of possible interest.<sup>17</sup> They are flexible enough to allow

<sup>12</sup> "Et de immunitatibus ecclesiarum vel personarum ecclesiarum vel status immunitatem nullo preiudicio habent, nec aliquibus immunitatibus et non exemptis personis necque his quibus immunitas non est" (*R.C.H., Capitulaire I, 181, n. 1*). The capitulary is identical for Italy, 782-788. Cf. also, p. 188 n. 3: "Salvatus et omnia publicis . . . personis immunitatem legationum non preiudicat vel utilitatem." Pope Eugenius to make clear the scope of the immunity for Lombard subjects who were not assimilated to the regime. But even there some scope for the king as monarch is mentioned for Charlemagne and leads to some modification in the general meaning of immunity?

<sup>13</sup> *Ibid.*, p. 189 n. 2 (180).

<sup>14</sup> The emphasis is on basic, military service, as appears in the next chapter which applies to some extent various modern lay prelates and services only there. *Placitum laicorum* has no immunity-connection of formal payments but of services, as reflected in the capitulary de promotione publicis (*ibid.*, p. 189) will show.

<sup>15</sup> *Ibid.*, p. 188, n. 3. "Quod si hinc licet legationes, functiones nec dispensationes mandatorum preiudicium non habent nec, necque non immunitas preiudicat."

<sup>16</sup> According to the view that the immunity was optional and essentially an exemption from public burdens, only note 14.

<sup>17</sup> For examples of very comprehensive provisions in regard to the immunity of all associations, cf. a part of 813 for Paludarii, in *R.C.H.*, I, 182, and the charter of Charles the Bold cited above in note 14.

reflection of such a change as the rule of 811-812 would seem to indicate. But no trace of such a change is apparent. Never is there a hint in the charters after 812-813 that the grant is less valuable or less inclusive than before. The formulae themselves still contain the statement which applies the immunity to all possessions and acquisitions.<sup>10</sup> The old phrase by which all *jurisdictiones* problems are added to the immunity is a normal part of the charter; there is no suggestion that an exception has been made which would affect the grant of *sanctus sibi debet* for non immunity, Kempton. In this period some foundations succeeded in writing more privileges into their immunity charter than constitute the normal content of such grants,<sup>11</sup> yet there is no charter which records any attempt to restore the value of the immunity to its old measure by restoring the rule of 811-812. And, finally, though the exact force and meaning of immunity grants sometimes needed and received explanation or reinforcement on certain points, no record has come down to us of such explanation on a rule which was so stated as to invite confusion.<sup>12</sup>

In short, the capitulary statement of the rule ignores the immunity, and the immunity charters ignore the rule of the capitularies.<sup>13</sup> Neither set of sources gives any indication that a change in the immunity regime was effected by Charlemagne, and both suggest rather the absence of any innovation. Yet,

<sup>10</sup> Cf. B.N.F., *Formules*, I, 292, no. 2 (*Formules Épiphanes*): "... inclusio et bene et agros et villas possessiones parochias mansurasque nostras tempore nostris et futuris illius possidetis vestris... quilibet illius privilegio deinceps nostras villas etiam illis quousque deus largitus est sine ulla rella sed voluntate illius privilegio regit."

<sup>11</sup> Cf. the charter of 800 for Saint-Polliard of Burgundy, which lists the grant of the census due to be unpaid (B.N.F., II, 589), and the charter of 802 without name for a certain *Wido*, p. 592.

<sup>12</sup> Explanations of difficulties involved in the application of an immunity are sometimes made of *Udal*, *Epiphanius*, p. 275, in reference to the well known dispute for *Archie*. (P. 282-84) issued a special formula which apparently complements the formula of its dependence from all payments a privilege already covered by immunities, *Udal-Epiphanius*, *Udal-Epiphanius*, I, 40 (*Udal-Epiphanius*, *Epiphanius*, I, 40, no. 280).

<sup>13</sup> *Walla*, op. cit. II, 597-598, suggests that the immunity charters do show a tendency toward a reaction against Charlemagne's capitulary of 803 for *Udal* lands, note 22, by showing extending the charters very specifically to cover all grants and acquisitions. Again from Charlemagne that the capitulary was for *Udal*, the dispute which involves the fact that the same immunity the rule of 811-812, they neither mention nor do they say grant specifically against continued payments from lands ending each census.

as we have seen, if *sewer* and *tributum* in the capitulations cited were land taxes, the rule certainly marked a change, and a change of importance.

Thus the difficulties that are presented are cumulative.<sup>20</sup> They can hardly be explained away by suggestion of carelessness in the style of the capitulations, for there are four different statements of the rule, varying in form and fullness of detail. In addition, there is the absence of traces of immunity charters. Nor would these difficulties be satisfactorily met by assuming an earlier enactment of the rule, but to us, and perhaps containing the allusion to immunity. Four various repetitions of the original hypothetical rule might be expected to show some signs of this allusion, and, again, there are the immunity charters, which give no evidence, before 814 or after, of a reduction in their scope. Finally, one could hardly maintain that the payments designated as *sewer* and *tributum* in 811-812 were so infrequent and comparatively unimportant that mention or consideration of the immunity would be unnecessary. In that case the rule itself, repeated four times, would represent a considerable effort on the part of the government to safeguard negligible revenues.

The way out of the dilemma occasioned by the necessity of relating the rule of 811-812 to the immunity lies in another direction. *Sewer* and *tributum* in the sixth century may designate survivals of the land-tax, but these terms are also used for payments of a different character and of different origin. Since the later empire, the word *sewer* has been losing the exclusive connotation of taxation and has been used to denote "payments" of almost any sort, including specifically private rents.<sup>21</sup> *Tributum* has been traveling the same path, though

<sup>20</sup> An additional consideration should perhaps be noted here. The tendency of the Carolingian period was, if anything, to increase the privileges and exemptions payable by the immunities, particularly according to Krusch, pp. 102-3, in earlier editions. Thus, when exemptions were being given, exemptions from the *sewer* *sewer* dues should the government take as much trouble to consider the effect of the immunity in regard to *sewer* which were paid largely by the poorer classes, owners of small properties (Koch, p. 112-3. In brief, this practice would represent a more leniency — but in combination with other immunities, the point may have significance.

<sup>21</sup> For one example among many possibilities, cf. the *Worms* capitulation of 806 for rental in the private houses: *M.H.E., Annuaire*, I, 7, no. 7.

perhaps not so rapidly.<sup>21</sup> A *Heilbronn* text<sup>22</sup> gives convincing testimony of the use of tributes for rental payments of some sort on royal lands. Even the *Plano* grants a villa, part of a royal fief, and at the same time orders "ad idem monasterium tributa ac redditus quos decem liberi homines . . . pro eo quod super terram suam noster monasterio concessit ad pastum publicum exinde perciperent."<sup>23</sup>

Even so there is clearly the possibility that census and tributes in our capitulary texts may refer to payments due the king from royal lands. Dopsch has so interpreted not only these texts, but most of the charters of the ninth century that refer to census ad pastum regium.<sup>24</sup> Following Branner, he assumes the existence of a large amount of royal or fiscal<sup>25</sup> property (*Reinpf*) which was not included in the royal manors organized as economic units and exploited by vassal and vassal as half-free tenants. This *Reinpf* had various origins: it included crown-land land appropriated by the king and opened up for colonization, it comprised border lands claimed by the king as his

<sup>21</sup> The consensus in the Carolingian period of tribute as such is the usual view, one note of the references to tributes and tributes' land in *Wala*, II (ed. edition, Berlin, 1880), I, p. 140. In the ninth century it would probably be made to derive from the use of tributes for the raising of public revenue, tribute being suggesting tribute.

<sup>22</sup> *Capitulare* *Heilbronn*, ed. P. Fugère (*Archivum*, 1880), p. 102, no. 3 (*Monum. Script. Latine*, *Suppl.*, I, 102, no. 100).

<sup>23</sup> The term *tributa* are census; tribute has not been used as an adjective of rent payments. Therefore beginning pro a villa is almost certain that the text refers to payment of rental payments on fiscal land. *Wala*, III, 2, p. 104, follows *Wala* in this view of the text. For another use of tributes paid from royal land, see the charter for Wiblingen preserved in a branch of *H.R.*, *Formeln*, I, 171.

One striking instance of tribute paid to a bishop for pasture services, there is the charter of a count in favor of St. Gall. The count makes some lands, with certain tenants, and he agreed to these tenants stipulates the condition under which the duty may be: "tributa ad tributa ac quodcumque feudum . . . hoc vel aliquid vel redditus emptionis et in maneris maneris tributa ac tributa ac quodcumque feudum ac feudum quodlibet . . ." *Versteherung der alten Recht*, ed. H. Wermann (*Archiv*, 1880), I, 102, no. 100, at the end of 100.

On the meaning of tributes and tributes in this period, cf. *Wala*, II, 100 and *Wala*, III, 2, pp. 141-142. The word tributa, of course, having since lost any meaning more definite than "census."

<sup>24</sup> Fugère, *Wiblingen/Heilbronn*, I, 100-101.

<sup>25</sup> The situation is decided in the question of *Reinpf* and as far as I can judge the terms "fiscal" and "royal" are interchangeable. However for definiteness there was a distinction between the royal land proper, defined from the Carolingian family *Reinpf*, and lands acquired in the ninth century (pp. 140-141). But for this distinction was made into administrative practice it need clear to me.



private possession, and in unalienated royal land developed by use of prescription. The occupants of such land held by some sort of lease, and Branner suggested<sup>47</sup> that one form of the lease might be that of the hereditary lease illustrated in the formulas of Angers and Tournai. The occupant by such tenure had strong proprietary rights, for he could alienate his holding, subject to the payment of the quit-rent. Depuch follows Branner in linking much of the royal *domaine* to a tenure of this sort. The fullest evidence on this category of royal land comes from the border regions of the Middle where fugitives from lands worn-out or damaged by war and their tenure was defined in favorable terms by a series of capitulary enactments.<sup>48</sup> At first these settlers were only possessors with limited rights, unable to sell or hypothecate the holding, and the tenures were hereditary to direct heirs only.<sup>49</sup> By 934 they were permitted to alienate freely to one another.<sup>50</sup> No more was charged these fugitive colonists for their holdings.<sup>51</sup> The ruler's desire in this region was not so much to secure revenues from tenants as to repopulate a devastated region by offering attractive forms of tenure, in which the obligations were cut down to practically the ordinary obligations of a subject. Elsewhere, presumably, an economic crisis would be charged to such tenants.

From any line of approach, the rule of 811-812 could be interpreted as having reference to tenures of this general type. The terms *onusa* and *relictum* raise no difficulty, for these terms may designate private revenues from private lands.<sup>52</sup> The context of the rule implies that the land paying a *onusa* can be alienated. Hereditary households of royal land could be

<sup>47</sup> Branner, *op. cit.*, I, 361, note 34. Depuch agrees.

<sup>48</sup> The history and character of these enactments have been ably and more fully set out by P. Luchaire in L. Tard, "Les colonies agricoles," (*Revue de l'Histoire*, 1887, pp. 166-175), and by others upon a falling within the opening years of the reign of Charles the Great, but not before. *Le règne de Charles le Grand* (Paris, 1898, *Bibliothèque de l'École des Hautes Études*), pp. 157-164.

<sup>49</sup> *Salut de la Terre*, *loc. cit.*, p. 163.

<sup>50</sup> *Act of Angers*, *Charles le Grand*, p. 163.

<sup>51</sup> *Salut de la Terre*, *loc. cit.*, pp. 163-164.

<sup>52</sup> It would seem highly probable that the *onusa* mentioned above (p. 556), has reference to income of this sort on these lands. The *relictum* is also, and then goes out of the way to make the *onusa* subject to a third of two parts of the same who occupy royal lands. The passage suggests a tenure above that of the ordinary free tenant.

alienated, at least in some cases; royal consent might be a usual prerequisite, but there is no reason to expect mention of that in the rule of 811-812 which deals with the result, and not with the process, of alienation. As for the main principle incorporated in the regulatory rule, that census due from land shall be paid by a new owner, such a principle would be so logical and natural in reference to royal households that we should assume its existence *a priori*. Bouquet has suggested that there is evidence of this principle as applied to fiscal lands in a passage of the *Lex Rationis Carinensis*.<sup>17</sup>

Above all, if census and tributes in these regulatory texts refer primarily to quit-rent payments from hereditary tenants on royal lands the rule no longer presents difficulties when considered in relation to the immunity. At first glance the difficulties would remain, for the immunity apparently frees any lands, however acquired, from any payment to the king. Hence census representing payments on royal lands would seem to be excluded by an immunity and the rule of 811-812 would still constitute a change needing explanation. However, some charters of Saint-Bertin indicate that so far as quit-rents on royal land were concerned the regulatory of Charlemagne would make no innovation.

According to a confirmation of Charles III,<sup>18</sup> the monastery of Saint-Bertin had enjoyed the privilege of immunity since the time of Charles II, who died in 806. If this confirmation is any indication, the immunity was of the usual type.<sup>19</sup> Nevertheless in 884 the abbot was fit to obtain from Theobald III a charter containing the following provisions:

... tale beneficium concessimus ut quod inde mosse distulerimus de illius nostre compositione habebat nec locution ad compositionem interdictam potest, prout illis nostris iure spiritus nostras curas hanc habuit concessum ut nullus redditus terrarum nec nullas functiones publicas debent de hoc aliquo nos requirere nec debere. Quo-

<sup>17</sup> Op. cit., I, 101, and note 14. *Lex Rationis Carinensis*, III, I, 6: "quicquid homines de his possessionibus iure hereditatis ... composuerint, nec potest quous beneficium mosse, nec tributum nec alia exactione. . . ."

<sup>18</sup> Charter of 884, in M.H.P., *Diplomata Regum Francorum*, 3, 101, no. 10.

<sup>19</sup> The terms of the confirmation extend the immunity to persons holding by "quod quidam personarum possessionibus nec nullas functiones ad nostras curas, nec nullas debent nec de compositione nec de publicis iure tributa. . . . nec additione nec solutione."

propter . . . desertionem . . . ut aliquis non tempore habundantiae sui maxime  
vult illi non spoliari de facultatibus potentatibus subiectis, de quibus scilicet,  
quod infra manus illius habentibus illis quod sunt maxime maxime illis  
corporationibus habet et deinceps ipse vel maxime vel non, pure  
ipsum maxime illi corporatibus potentatibus, propter illas maxime unde  
corporatibus sunt illas redditus maxime non maxime facultatibus quibus  
illis maxime non maxime, illi spoliari illis illis ipse illis, vel pure  
maxime vel illis vel maxime vel quod illis maxime maxime  
illorum . . . habet maxime illis illis."

This charter contains two main dispositions in favor of the abbey. In the first place, any acquisitions of royal land within the fief of Alligny are confirmed, whether past or future. The context tells us something as to the nature of the holdings acquired.<sup>10</sup> They are obtained from the actual tenants, and not from the royal proprietor, for in the latter case the exception of a certain type of tenure would be unnecessary.<sup>11</sup> Thus the tenure indicated is one which can be alienated, but the alienation seems to depend on royal confirmation. *Osium* and *servi*, constituting the bulk of the tenantry on a normal estate were hardly envisaged in this charter, for they were not allowed to alienate their tenure.<sup>12</sup> Even a Merovingian ruler would hardly give an abbey permission to dismember a royal fief by purchase, or, hardly illegal, from such tenants. The text would seem to refer to quite real branches of the category suggested by Fournier and Thorpe.<sup>13</sup>

Part in the second place, after giving Saint-Nicolas, Monday

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<sup>24</sup> Computers remain most in demand by purchase, but more gradually to have more general uses. Cf. H.H. H. Friedman, L.H. Lee (1977), "Computer and office market: some early projections" (National and international statistics on demand and statistics on computer acquisition and comparison." *Marshall J. of*, 10, 1977, p. 110, line 17 (Cardinal, 1977, p. 110, line 10) (see note 1). In the United States, whether a computer is used, there is a low level of use, and a low level of use.

<sup>22</sup> Clear and adequate and specific information would be necessary if the king had assumed the lead already.

<sup>11</sup> Through discussion, this fact is decided by law, showing thereby that it prevails with respect to the relevant rule (cf. *Capitolis*, I, 161, n. 10 (1993) and 161, I, 161 n. 10 (1993)).

\* A parallel situation may be indicated in the Habsburg domain cited below (note 88). After donating a villa, and the corresponding two hundred florin capital and the chapel under construction,<sup>1</sup> upon their location, particularly the village, first was repurchased and, and then considered "all traditional associations." Consulting had already been granted by confirmation.

permissions to receive such lands, the king goes further: "and you shall not demand any rents (*redditus terre*) or services to the state (*publicas functiones*) from the monastery on account of these lands." This injunction is repeated in a long prohibitory clause, and evidently constitutes the point of major importance to the abbey. Despite the fact that Saint-Bertin had no immunity which exempts its lands from all payments, the abbey desires a charter which frees fiefal lands, acquired from the tenant and not by royal donation, from *redditus terre* and *publicas functiones*. The inference is clear; the immunity did not affect rents due all parties except from landholders transferred to the abbey. Otherwise, mere confirmation of previous assents would have sufficed to attain the desired exemption, or at least we should expect brief mention of the immunity already possessed by the abbey. As it is, the Saint-Bertin charter does not even relate its exemption to the immunity; the word *immunity* is not mentioned. The exemption is outside the scope of the ordinary immunity, or is an addition thereto.

When the abbey secured general confirmation of its privileges under Theobald IV in 761, not only was the immunity charter confirmed but a separate confirmation was obtained for the double privilege gained in the charter of 681.<sup>17</sup> The separate confirmation was repeated in 761.<sup>18</sup> These separate records justify the impression already gained, that the exemption of 681 is additional to the immunity privileges.

Thus the charters of Saint-Bertin give us information about landholds of royal land, on two points. First, royal permission or at least confirmation is necessary to validate their alienations; secondly, the rent follows the tenure despite an immunity. Further illustration of these two principles can be found in the inadequate sources of the period, particularly in the case of the

<sup>17</sup> M.S.B., *Supplément Supplément*, p. 46, no. 51, and p. 47, no. 48.

<sup>18</sup> *Ibid.*, p. 46, no. 48. In these later confirmations, the monastery purports to waive the rights concerned not only for the time of despoil but for fiefal lands acquired (or thought to acquire).

The scope of these confirmations makes it quite clear that the point of exemption from *redditus terre* is quite separate from the mere confirmation of acquisitions; i.e., the exemption is not a mere consequence of confirming the acquisition.

first. An irregularly phrased immunity charter of 946<sup>12</sup> includes a provision separated from the immunity proper: "on locutionibus habundant terrens fiscalis compendii nil immutandum." A century later we find the same rule underlying a provision in two almost contemporary immunities of Charles the Bold for Southern French monasteries. After the complete formula of immunity these charters provide that holders of land bordering on immunitable property (in compositis) or surrounded by immunitable territory (*intra fines proprias monasterii*) shall be permitted to sell to the monastery or exchange with it.<sup>13</sup> Knecht interpreted these texts as emphasizing the general privilege of monasteries to acquire ordinary allods,<sup>14</sup> but the limitation of the privilege to particular lands contradicts such an explanation. There is more than a hint here of special circumstances,<sup>15</sup> and given the fact that these monasteries were situated in the regions opened up to settlement by Spanish refugees, I would suggest that the reference is to lands of these refugees, fiscal tenures, hereditary, and alienable within limits.<sup>16</sup>

Then there is a very parallel charter for an abbey of Münster, granted by Cusuman in 988.<sup>17</sup> The privilege reads rather

<sup>12</sup> H.K.E., *Diplomata Regum Francorum*, p. 17, no. 57. "Vbi in fine chartae refertur confirmatio by Pons et by Knecht (op. cit., p. 180)."

<sup>13</sup> Charter for Saint-Polycarpe in H.K.E., cit. cit., and for Saint-Léonard, ibid., p. 187. Charles' charters of this sort (Belgium, Charles le Chauve (op. cit. 180-184). Both charters were issued in 944. The phrasing runs in the second charter, "illiusmodi homines ad in compositis propriis monasterii in pce propriis terre et vicinis eis immutabilem habent, immutabilem et ad illius monasterium in vicinis eis immutabilem."

<sup>14</sup> *Ibid.* cit., p. 180.

<sup>15</sup> And the last is confirmed by a further clause found in both charters and restricting by charter an addition to the normal immunity provision:

"Constitutum estque ut homines illius monasterii infra locutiones et fines tenens aliquibus vicinis suis non possint locutiones allodis et immutabilibus in vicinis tenentibus locutionibus quibus possidentibus illis tenentibus in compositis aliquibus suis homines in vicinis vicinis vicinis monasterii subiacentibus" (Saint-Léonard). The original version for Saint-Polycarpe's charter is the phrase added "in vicinis vicinis et vicinis vicinis vicinis."

The king is apparently selling royal rights over unoccupied land reclaimed and developed by tenants of the monastery. The implication is that there was much of such land in the vicinity of the monastery. Hence the neighbors of the monastery, permitted to sell and to exchange their lands, were liable to be brought to such lands already reclaimed.

<sup>16</sup> By this these tenants could alienate freely to one another, but not to outsiders (Lut and Belgium, p. 188).

<sup>17</sup> H.K.E., *Diplomata Carolina*, I. 44, no. 45.

markedly the charter of Saint-Bertin. The rule accords confirmation of any acquisitions, made in any way, from laymen for ecclesiastical use.<sup>21</sup> Then, separately, as in the case of Saint-Bertin, there follows the injunction to royal agents "ut . . . nullus secularis vel ecclesiasticus alicuius boni vel regni vel loci vel ecclesiasticae personae monasterii subsecrari vel violari . . . audeat . . ." There the grant is related to an immunity, but the specific exemption may well refer to rents.<sup>22</sup> There are, unfortunately, no other records of the cell which would allow us to determine whether a regular immunity had been already granted.

The second principle involved in the charters of Saint-Bertin was that fiscal lands continued to owe a census when they were alienated by laymen to a church possessing immunity. For the best example of this rule, I submit that we may turn to the oft-cited capitulary regarding lands paying a census. Charlemagne's enactment of 801-802 stated that properties owing a royal census and given to a church should continue to pay the census, and implied, without specifically stating it, that the immunity was no bar. The conclusion seems clear that the principle latent in the charters of Saint-Bertin is embodied in the rule of 801-802. For then and there only does that rule become comprehensible in its style and in its relation to the immunity. Given the procedure exemplified in practice in the Saint-Bertin charters, the capitulary could state its point briefly and without elaboration because it was affirmation of old practice, and not innovation. Reference to the immunity was unnecessary because of the long-existent understanding that fiscal lands, acquired otherwise than through direct royal donation,

<sup>21</sup> Probably those of a secular form, "*laiches*." The phraseology is usually clearer.

<sup>22</sup> "... itaque illis expressis ingenuis seu villis, vel mansibus de beneficiis ecclesiarum monasteriorum, licet deo factis per nos, necesse sit, bene tamen bene debemus nos, ecclesiasticis personis et locis, prout consueverunt, vel de presentibus beneficiis, et quodcumque de beneficiis ecclesiarum vel de quolibet ecclesiastica vel de seculari personarum hereditate vel de quodcumque ecclesiastica vel seculari personarum hereditate generaliter constitutum habuerunt. Proinde nos, et itaque nos . . . itaque quodque ecclesiasticis seu secularibus vel eorum filijs, personarumque quodcumque ecclesiasticarum vel . . . secularium personarum, vel de quodcumque ecclesiastica vel seculari hereditate . . ."

<sup>23</sup> There is one example of the use of *cella* (*cella*) to denote those payments of which collection is prohibited by the immunity.

sale or exchange, did not enjoy the privilege of immunity as concerned their dues. For much the same reason, immunity charters would not be expected to show traces of a rule which had limited the scope of an immunity's exemption since the early days of such privileges. And, finally, the *solus decimas* demanded in 802 to secure exemption from tributum de rebus, and illustrated in the Kempton charter,<sup>17</sup> would have a forerunner in the charter of 881. In short, if the *conatus de rebus* of our capitulary rule means a payment from fixed property, that enactment presents no further difficulties in regard to its necessary relation to the immunity. Therefore, if we consider the principle involved and the form in which the principle is stated, the rule of 812-813 would seem to have been written to refer to fixed revenues from a category of fixed lands.

This conclusion attains significance when we consider not merely the principle involved but the terminology of the capitulary texts. According to that terminology, the enactment applies to any property which paid a regular census or portion repleis and which could be alienated. The land-tax, in so far as it survived into the Carolingian period, survived as a regular payment, census or tributum, on land which could of course be alienated. Therefore, such payments would be subject to the application of the rule of 812-813, for the rule makes no exceptions. The implications are apparent.

In the first place, the distinction between a census due the king as ruler and a census due the king as proprietor was breaking down. The fact is not surprising. The difference between a customary fixed land-tax and a species of quit-rent on hereditary, alienable fixed holdings is a rather fine one at any time.<sup>18</sup>

<sup>17</sup> *Ibid.* n. 184.

The Kempton charter (nos. 10) has peculiar wording which would seem to support the probability of its application to fixed lands. After mentioning the possession of 10 hides and ending the census, the charter closes with a trace of exemption: "the lands which we possess in exemption, at some point when we acquire lands presented to us in particular a qualified archbishop, each of whom we will allow lands presented." The three *decimas* might cut off our gifts from any man if the king is not referring to fixed lands, for *decimas* means military service, soldier and food made, etc. (cf. *nos.* 105, 116). It would mean a considerable exemption, however, if fixed lands of the type that could be alienated, are implied.

<sup>18</sup> *Ibid.* notes show considerable uncertainty in the use of terms to designate the payment of tribute or imperial tribute to the later Roman Empire.

and the Frankish age was not one to keep fine distinctions. There seems to have been no administrative practice whereby the distinction would be clearly maintained.<sup>12</sup>

But furthermore, this merger of customary land-taxes and royal quit-rents was taking place at the expense of the former. The merger is evidenced by a rule which applied originally to payments on fiscal lands and which is now treated as broadly as to extend its application to any lands making a fiscal payment.<sup>13</sup> Thus, *omnes de rebus* that once were taxes would be subjected to a rule which is so related to the immunity as to deny them even the character of public functions, public obligations, within the meaning of the immunity. The rule does not adapt itself to specifically include former land-taxes: the latter would simply be included under the rule by virtue of its terminology.

That the merger should take place along this line does not seem improbable. Had land-taxes remained as a general obligation on all property, they might have resisted a merger leading in such a direction; they might have retained a clear status as public functions.<sup>14</sup> But the history of land-taxes after the sixth century is one of steady decline so far as incidence is concerned, even in territory unaffected by immunity clauses.

Even in the sixth century the Roman technique of tax-assessment and registration was maintained with only partial success. Public opinion resisted changes in amount or incidence, and tended to regard taxation as exploitation, or "ex-  
torcion."<sup>15</sup> The rulers themselves seem to have shared in this

<sup>12</sup> Not all land-taxes were part of regional registration and subject to the same process of abolition of public demands. The *Capit. Merov.* clause of 583 distinguishes lands of a domain still both payments and assessed as though free tenement, from the ordinary immunity clause. Royal lands representing the results of abolition of any ordinary would seem to have actually taken the usual forms of control, and such is the inference drawn from the regulations for Spanish Sigevo. Cf. *Capitul.*, op. cit., I, 325; *Revue*, op. cit., I, 36. The point needs further elucidation.

<sup>13</sup> *Capitul.* evidently holds that these capitularies refer to recording tax-payments as well as payments on royal lands, cf. op. cit., I, 326, with I, 325.

<sup>14</sup> An already noted point, noted in the Visigothic period retained some conception of what "public obligations" meant.

<sup>15</sup> On this point cf. *Est. Supplément*, pp. 378-379.



By the seventh century the amount of the tax was becoming fixed by custom, probably as an inevitable payment due from particular provinces.<sup>12</sup>

The next century and a half is marked by a general decline of administration, due to weak kings in a day when the royal power was the making of central institutions, and due further to civil wars and dissension. Sources are almost wholly lacking to inform us on the fate of taxation, but it seems highly probable that the land-tax, reduced to fixed payments from particular properties, must have steadily lost ground even in its restricted form. Without a regular system of land-records such as could hardly last long under the circumstances,<sup>1</sup> the confusion induced by divisions of property, added to the confusion resulting from extension of immunity grants to widely scattered parcels of land, would mean that more and more properties must have escaped the obligation of tax-payment. The immunity charters of the period are suggestive in their silence regarding direct taxes.<sup>2</sup> These charters always contain a prohibitory clause concerning the exercise of financial powers by the feudals. This clause is often developed to considerable lengths in order to cover all possible evasions on the part of the public officers. Except in a very few doubtful cases, however, direct taxes are never specifically mentioned, and must be either understood, or inferred from a vague phrase of general summary which often concludes the clause.<sup>3</sup> The implication is not necessarily that

<sup>22</sup> For the functions of the tax by income level for each property, see in the literature, e.g., p. 102, and p. 108. For other literature, see, e.g., p. 102-103.

<sup>12</sup> Although seldom, it may also mean "to be rejected, refused". *Idem*, *Proverbia*, 1:80. This is the last trace of third persons and it would seem possible that even the copulas have maintained an indistinguishable of second persons, rather than the second.

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In other chapters, some authors also prohibit the doing and selling of something in places which may include food-bars, but only by implication.<sup>1</sup> In several studies, drug and food outlets together are mentioned and certain locations are prohibited.



probable. Domesday has referred most of these tenure to payments on royal *disgavens*.<sup>2</sup>

Given the survival of land-tenure in the form of fixed customary payments on secular property, we can understand the situation indicated by the rule of 811-812. Frankish rulers were receiving regular payments, called *service* or *tributum* from lands which were not part of organized royal manors. These payments had different origins and characters; some were surviving land-taxes, others were hereditary quit-rents. Superficially, from the ruler's stand-point, they would seem very much alike. What more natural than that rulers who could allocate to a monastery all the specifically public obligations of an individual<sup>3</sup> should come to regard these various *service de rebus* as though all were payments from royal land? Or, at least, should treat them as such by affirming an old principle applying to fiscal lands in terms that applied it to any land paying a fixed annual?<sup>4</sup>

It would be extremely hazardous to claim on the basis of this evidence that surviving land-tenure have become definitely "private" rents by 811-812. No claim of the sort is made here. The writer would go no further than to maintain that on the

<sup>2</sup> Domesday, *op. cit.*, I, 122-422.

<sup>3</sup> As a Birmingham example, cf. *R.C.H.*, *Seigniorial Disputes Proceedings*, p. 105 no. 72 ("*hinc inde quous reliquis hereditariis*"); or a Carlisle one, cf. *R.C.H.*, *ibid.*, 161 (John earl of Mortimer, *ibidem*, no. 194). The last great 14th century military service, quit-rent, justs and whatever else was "of persons publicum tenore capite tenentium."

<sup>4</sup> For the general attitude of the Frankish rulers towards the monasteries, cf. Wille, *op. cit.*, II, 4, 107.

<sup>5</sup> At first glance it might seem that a policy too mistaken of this sort would need application to the tenure of land that public service tenure land-tenure. But on further consideration it happened that revenue of these lands would not be seriously affected by the rule of 811-812. That rule concerned only the fate of the service after the land had passed from their hands. The rule involved no injury to their proprietary interests, and its implications would be lost on them.

The monasteries' self-interest which required the lands would be the only factor by this rule, if it involved a change. But the change affected only part of the lands that entered the church every royal service (i.e., only those on which the service was *hereditary* tenure, the service representing quit-rent but always hereditary regardless of tenure type, and only surviving quit-rent to have failed on the small land-tenure by this period (cf. *Engl. Church*, p. 112). Could the churches be presumed to have kept the distinction between public service tenure and other tenure sufficiently intelligible irrespective of this rule? Doubt, it would seem, if the service representing a fixed tax were of frequent occurrence.

point of administrative practice covered in this capitulary, such survivals of taxes were being assimilated to *census de rebus* which had not been publican functions under the meaning of the immunity charter. To what degree the tax had thereby lost its original character is a difficult question, and the answer depends partly on examination of all the Carolingian charter references to *census*.<sup>28</sup> More remains to be done in tracing the further history of the *census*.<sup>29</sup> In the meantime, we have a starting point: the "evolution has only commenced," but we can see the fact of the start and something of the process. In the capitulary enactments concerning *census de rebus* we catch a glimpse of the remnants of the land-tax en route to their ultimate extinction, the *aveu*.

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<sup>28</sup> To make sure whether any of these references show that *census de rebus* still retained the possible meaning of a public tax. Chapuis has covered the ground but thoroughly: here and there interpreted nearly all of the charter references to *census* as equivalent to Chapuis (*op. cit.*, I, 132-133). There remains a *fr. Gall. lat.* which he now chooses to regard the date that fixed taxation was extensive and (intentionally) in a different matter to prove after his discussion of nine tenths of the charter references. This choice of *fr. Gall. lat.* often proves a failure that must be considered here (Watkinson, *Palaeography*, I, 277, no. 322).

<sup>29</sup> Specifically in connection with II of the *Palatine Palace*, 884, where the word *tributum* is discussed in connection with new provisions. The text is so long and the questions involved are so many that the point raised must be reserved for separate treatment. It is my opinion that the next major further step in the evolution of fixed land-with-proportion making a payment that was once a land-tax is that by this effect alteration of use had created a *census* requiring royal permission. Such principles contained in the charter of 882 for *frank-fiefs* would then be involved in the capitulary of 883.

## THE USE OF CLASSICS IN THE FLORENTINE SHEPHERD OF ALBERIC OF MONTE CASSINO

THE intellectual history of the Middle Ages presents no more notable an instance of a true renaissance than that which occurred at Monte Cassino during the eleventh century. After enjoying an enviable reputation in the high Carolingian age, a point of pilgrimage which brought Charlemagne himself to her doors, the house of such men as Paul the Deacon and later the learned Bartholina, the great Benedictine mother-abbey fell victim in the year 883 to the plundering raids of the Saracens. Her church was burned, her treasury lost, including a library of inestimable value, while the monks were obliged to seek refuge first at Tuscany and later at Capua. Not until the middle of the tenth century was residence in the original home resumed, and only slowly did the abbey begin to recover from the darkness into which she had been plunged. Yet so early as the rule of Abbot Desiderius (1058-1087) the very remnant of her material prosperity, her moral and political prestige, and her intellectual vigour was reached. On the side of her cultural life this notable rebirth was expressed not only by the splendid activity of her scribes and the building up of a rich library, but as well by the writings of a remarkable group of monks. Among these were the Abbey chronicler, Leo Ostensis; the mathematician, Pandolf of Capua; the poet, Gualtherus, and the historian of the Normans in north Italy, Amatus; the medical writer Constantine the Abbot; and Alberic the Deacon, who flourished about the year 1075.

Little is known of the life of Alberic. Peter the Deacon, the continuator of Leo's excellent chronicle, devotes a chapter of his *De Fidei Philosophiae Constantibus* to Alberic, whom he calls a *vir doctissimus ac eruditissimus*.<sup>1</sup> He was a Cardinal

<sup>1</sup> Peter the Deacon, in *Pauli Benedictini Chronicon*, cap. xvi, in *Scripta Philologicae Florentinae*, edidit, vol. 1884-1886. Peter gives positively the name *eruditus* in cap. 54, *De Fidei Philosophia Constantibus*, edidit, vol. 1886. A more correct edition of the chronicle is in *R. I. S. I.*, Scriptores, vol. 145-146, edited by N. Wailly.

Dean of the Holy Roman See, holding his title from the church of the SS. Quirinus-Corcorin, near which he was later buried. His association with the Roman Curia during those troubled years of the reign of Gregory VII seems, indeed, to have been a close one; to the papal cause he contributed a treatise, *Contra Romanorum Imperatores de Electione Romani Pontificis*, which unfortunately has been lost. And in the trial of Berengar of Tours before the Synod of Rome in 1079, it was Alberic's *De Corpore Christi* that gave the final refutation to the northerner's hostial views, and consigned them, as Peter thought, to eternal oblivion.<sup>1</sup> Peter finally lists a number of Alberic's other writings, chiefly of a religious character: *Evangelii scholia*, *sermones*, *pastoral compositions*, and other liturgical works. But the list also includes a group of writings which appear to have been designed as text-books for training in the liberal arts. A *Liber de Dialctica*, a treatise *de Astronomia*, and a *Dialogus de Musica* are mentioned, but not otherwise known. We are more fortunate in the preservation of the *Liber Dictionum et Sententiarum* included in the list, and now known as the *Reveriarum de Dictionibus*.<sup>2</sup> Two other works of Alberic's, both of a grammatico-rhetorical character (not given notice by Peter) have come down to us: the *Liber de Barbarismo et Solusismo*, *Prope et Substanti*,<sup>3</sup> and the *Reverie* still unpublished *Floris Rhetoricæ et Dictionum Rati*, as it is entitled in three of the four extant MSS.<sup>4</sup>

nothing in Alberic's scholastic has been simply passed by B. Capes, *Petrus Hispanus and the Minor Canonist Albertus* (Berlin, 1895), cf. *Index Academicus*. <sup>2</sup> In *Petrus Hispanus* in *Revue Archéol.* (1884), 178-184. An biography of the Dominican monk of Monte Cassino, however, Peter is generally very accurate.

<sup>3</sup> "Hocque opusculum est doctrinale, et maxime adhibet textum," *M.S.B.*, 11, col. 486. Cf. J. Scholten, *Berengar von Tours (Berengar, 1079)*, pp. 104-105. A fragmentary record of the alterations containing Alberic's arguments has been discovered at Monte Cassino and is now published in the *Patrologia Christianæ Monachorum classica*, edited by Dom Martin Jugie (Monte Cassino, 1899), 1, 1, p. 10.

<sup>4</sup> Found in no. 1015 of the 17th-century copy of *Manuale Poetæ* (no. 101, 1874), fol. 101-102. Originally from Felix Haunemann, and *Cat. manus. lat.* 1861, fol. 27-28 (originally from Tappert). It is found also in *Palatin. Bibl. Vind.* 10, 10.

<sup>5</sup> Two MSS. of this work are known, both in Christian houses of monks' Religio. Voss 107, nos. 10-11, fol. 104-113, and Lib. 101, nos. 101, fol. 41-54, both found in *Index Academicus* (Flores, 1895), 1, 1, p. 102 and p. 110.

<sup>6</sup> *Cat.* no. 101, 1874, nos. 101, fol. 44-45. "Rhetoricæ Flores"; *Cat. Capes* (Flores, 18. *Ap. Bibl. Vat.*, nos. 10, fol. 1-11, "Dictionum Rati"; and 101-102.

It is as author of the *Swedishen de Distansien*, the earliest formal treatise on the art of scribbled composition, that Albrecht best known to students of medieval culture. Indeed, up to the present he has been studied almost exclusively with reference to his position as founder of that new literary genre, the *ars distansialis*, destined to play such an important part in the educational scheme of the institutions immediately following. Thus, when Rockinger published the *Swedishen de Distansien* some two generations ago in his collection of *Beisefolien*, he printed only the prologue of the *Floris Echterel* and listed the classical authors actually named in the work.<sup>1</sup> Later writers on the history of distans have likewise passed over the rhetorical treatise as not directly related to the subject they were considering.<sup>2</sup> It has been left to Professor Rockinger finally to point out Albrecht's broader literary activity and to correct the false impression of his work caused by the fact that Rockinger had omitted in the *Swedishen de Distansien* the relatively large portion dealing with general grammatical instruction, in which it differs from the works of later distansers.<sup>3</sup>

It is clear from Albrecht's prologue that the *Floris Echterel* was written as a school-book and designed for the training of his

of *Universitätsbibliothek* actually to that of Copenhagen. Carl Norden, in cat. no. 14, man. no. 1000a, Paris, April 14, 1915. The manuscript is bound in a fourth part of the work, *Stilistik* (Munich, 1895, 1900), cat. no. 100a 100-105. The present writer is preparing an edition of the work based on these four manuscripts, the publication to be in the series *Medievalia Scandinavica*, under the editorship of Don Marco Jorgensen, the learned librarian of the library.

<sup>1</sup> L. von Rockinger, *Beisefolien und Pseudofolien*, in *Quellen zur Geschichte der Germanistik* (Munich, 1898), II, 1, pp. 4-5 and pp. 101-102 for the text of the *Swedishen de Distansien*.

<sup>2</sup> Wernicke corrected Rockinger's error in assigning the *Distansien Echterel* to Albrecht, *ibid.*, cat. no. 100b, showing it to be considerably later and of much higher origin; *Pseudofolien* (Pseudofolien) (Berlin, 1904), I, 104. See also H. Jorgensen, *Die Germanistik der Universitätsbibliothek Kopenhagen* (Copenhagen, 1904), p. 14.

<sup>3</sup> His article is appearing in a volume of essays edited by Don Marco Jorgensen, celebrating the four-hundredth anniversary of the library (1900). It was kindly accepted, with the author's consent, to read the article in great detail was largely to select subjects at the library in Copenhagen, 1900. With regard to the *Floris Echterel*, Professor Rockinger gives particular attention to the *Floris* (see *Germanistik*, the long epigraphical section appended to the close of the treatise proper in the Munich MS. above cited in cat. 1), and suggests possible identification of Albrecht with the so-called "Hilfsmittel" (Hilfsmittel) (Berlin, 1900). He refers to the subject in the paper published in *Germanistik*, Berlin, 1900, cat. no. 100a.





unerring the extent of the author's own knowledge of ancient writings. It is revealed as well how an eleventh-century monastic teacher directs the attention of his pupils to the writings of the ancients, holding them up as models of style and recommending their study as an essential and integral part of their training in the art of writing.

Albert calls this advanced doctrine which he is offering his pupils a "new aster," "let it not flow away," he cries, "but let the mind, touched by the rays of Platon, bring forth flowers." He then puts himself forward as a candidate for the palm, to the stupefaction of his adversaries, promising that here shall flourish both integrity and utility.<sup>14</sup> Actually, the *Flower Rhetoric* resolves itself into a treatment of the precepts observed to be observed and the colors to be employed by those who would attain to the name of a writer of the first order, a scriptor. For a scriptor, it develops, is one who is able to observe the proper forms of rhetorical construction in the composition and adornment of his work, avoiding the pitfalls of the various vices or faults, and using skillfully the devices or colors which will produce the desired effect on the reader or hearer. Thus, in introducing the subject of the prelections, Albert says: "Whoever sets out to adorn his work should observe in his prologues those prelections, those colors," and he then gives various rules to be followed with respect to the divisions of rhetoric and the forms of work.<sup>15</sup> A metaphor is a color "which we might indeed call a ray since . . . it penetrates, reveals, makes luminous those things which are obscure."<sup>16</sup> How completely Albert regards his work as one dealing with the subject of the colors of rhetoric is revealed when, toward the close, he says: "But lest we should tarry too long, let us

<sup>14</sup> *Op.*, *Capitulum*, 1043, fol. 1: "... novus aster propius affert, radiis plaudunt, flores hinc parit. His asteribus erudit, his palmarum apertis, his adversarios alit, abundant, nitens, discipulis, hic hauriet, hic rapti colligit."

<sup>15</sup> *Ibid.*, fol. 1: "Quodlibet opus vult parit prologus, deinceps . . . hic colorum hic asterum propulsiat."

<sup>16</sup> *Ibid.*, fol. 10: "cum metaphora color quoniam radiis diffundit et res obscuras replebit . . . clarescit, metaphora penetrat, diligit, dilucidat." He next goes on to speak of "flos colorum"; *ibid.*, fol. 4, as expressed and taken by John de Lafore in his *Archidialectica*: "Aliter rhetorice colorum flores colorum," as given in C. E. Bédier's, *Il y eut des Rhétoriciens* and Paris (New York, 1902), p. 274.



deinde colligit . . ." Surely in this way he commands students, and in recommending serious attention. If you wish to secure goodwill," Alberte then urges his pupils, "you will observe those same precepts that make for attention."<sup>10</sup>

Not always, however, are the illustrations drawn from the ancients; Alberte not infrequently introduces those of his own making. "Let us rely on example of our own as well as upon those of the ancients," he says in concluding his treatment of the divisions of rhetoric.<sup>11</sup> After giving a long passage typical of his own florid style, he continues in a way that shows how detrimental he nevertheless remains toward classical writers: "You have therefore an example from us of how you may set forth and interweave the divisions named above; compare yourselves also from the writings of the ancients. Balbast observes a similar order, speaking thus: '*Parvus descriptus*, *Melior patet mox modis ubi praeceptis* . . .'" the quotation continuing through the whole of *Belles-Épigrammes*, etc., 1-4 and 22.<sup>12</sup> A similar instance of Alberte's willingness to place his own writing beside that of a classical author as a model of style is aptly expressed in the *Précis des Dictionnaires*, where two verses are given in immediate succession. "The first verse is Horace's, the second mine," Alberte calmly points out.<sup>13</sup>

Quotations from eleven different ancient authors are found in the *Flora Rhetorica*. Virgil quite naturally assumes first place among the poets; there are a dozen quotations from the *Aeneid* scattered through the work and several from the *Æneida*. Ovid's *Metamorphoses* is used hardly half as many

<sup>10</sup> *Id.*, *ib.*, 10: "Cibum deinde quibus capere benevolentia, delectare, placere, . . . Et sic deinde confutamus exempla adducta in ratione ut totius saluti." The passage only roughly follows *Belles-Épigrammes*, 2, 1. "Salutem namque per hoc studium consequitur, consequentibus virtutibus paratur. Et benevolentiam parat caritas, sedes illa est benevolae benevolentiae charitatis."

<sup>11</sup> *Id.*, *ib.*, 10: "Nunciam hoc modo cum ratione exemplis."

<sup>12</sup> *Id.*, *ib.*, 10: "Hic quoque exemplum a nobis quoniam exemplum antiquorum praeceptis ubi benevolae caritatis studium in virtutibus nutritur. Beneficentia benevolentiam parat; caritas, ut diximus, est virtus."

<sup>13</sup> *Belles-Épigrammes*, op. cit., p. 22. The two verses are:

"In illam me ipse hunc me in epigrammata."

*Id.* *Belles-Épigrammes*, t. II, p. 22, l. 5, 6 + 222.

"Parvus in hoc ubi ubi ubi ubi ubi ubi."

Thus Alberte adds: "Pars versus est Ovidii, secunda mea."

times. There are four long passages from the *Pharsalia* of Lucan, and one short one. The five citations of Terence are drawn from several of his plays. There are but two quotations from other Persius or Horace. Ennius is not named in the single passage from him, and Boetius is met with but once. Salust is Albert's favorite prose writer; the six quotations from the *Bellum Jugurthinum* and the *Catalinæ* Catilinæ are long ones and prominently placed. The three from Cicero on the contrary are brief, although he is referred to on several other occasions. The first lines of a sermon ascribed to Augustus are also given.<sup>27</sup>

It is not to be assumed, however, that all of these quotations were taken directly from the works of the classical authors concerned. Albert drew heavily on the first two books of Isidore of Seville's *Etymologiae* for his citations, and not infrequently takes over the identical quotations used by the great encyclopaedist in illustrating the same grammatical or rhetorical point.<sup>28</sup> The citations from Persius, for instance, are precisely those used by Isidore (*Etym.*, I, cap. 58, 17) to describe a principle similar to what Albert calls *apophysis*. The Ennius passage is explained in the same way, as well as all of those

<sup>27</sup> The specific quotations from each author may be recorded at this point. Their position in the body of Albert's work can be gathered from the summary indices of the *Flores* (tables appended at the close of this paper).

Vergil, *Aeneid*, I, v, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Isidore, *Etymologiae*, I, vi, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Lucan, *Pharsalia*, I, vi, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635,

from Cicero. In short, the *Flora Alsteri* furnishes an instance of that particular element in the classical culture of the Middle Ages in which Professor Haskins has commented, namely, the glazing of quotations from grammars or florilegia.<sup>17</sup> Yet in some of the very cases where Alsteric has seemingly drawn from the *Etymologiae*, quotations from an extraneous source are freely interspersed.<sup>18</sup> Considering this partial dependence on Isidore for his classical material, one would expect to find that he had used other standard grammatical or rhetorical texts in the same way. His *De Barbarismo et Solocismo* is "edited," according to the prologue, from Donatus, Cassiodorus, Boetius, and certain others.<sup>19</sup> In actual fact, however, there is only one instance where a quotation found in the *Flora Alsteri* corresponds to those in Donatus or the *Florum Alsteric* of Baluzi's collection other than Isidore, while the few verses of Virgil and the one of Lucretius found in *Prologus* there illustrate completely different points.<sup>20</sup>

Granting that Alsteric borrowed some of his classical quotations at second hand, as to speak, the position of the ancient authors in the *Flora Alsteri* remains a very strong one. There can be little doubt that he went straight to the works of certain of them. This is prominently the case with Sallust, who is regarded as the foremost among prose stylists. Virgil and Terence are referred to in general terms that bespeak Alsteric's intimacy with them, and the Dindorfian catalogue of books copied at the Abbey in Alsteric's day includes the names of both of these authors.<sup>21</sup> Lucretius, too, seems to have

<sup>17</sup> Cf. H. Haskins, *Medieval History of Western Europe* (Cambridge, 1907), p. 100, and *The Disappearance of the Vulgate Glosses* (Cambridge, 1907), p. 125.

<sup>18</sup> Where Alsteric borrows quotations, for instance, the two quotations from Virgil are different from those, I. sup. pp. 1 and 10; but between them are found a number of verses from Ovid not used by Isidore. Again, of the verses illustrating *solocismo*, Lucretius, *Flora*, I. 8, 10, 100-107, only verse 100 is in the *Etymologiae*.

<sup>19</sup> Cf. Baluzi, *Opera*, 1871, ed. 100: "Antonius Donatus, Cassiodorus Boetius et aliorum auctoritate composuit. Libris de Barbarismo . . . etc. Isidore aliter et alii quidam et aliorum auctoritate."

<sup>20</sup> There is some reason for thinking that Alsteric may have used the *deinde* of Horace, which was copied at the Abbey about the time Alsteric was writing (*ibid.*, pp. 10, 11, 110), one of *Florum Alsteric*, *locus*, 14, 10. Its terminology is apparently not with it the *Flora Alsteri*, but it would be difficult to ascertain whether Alsteric knew the work at that time, or only by way of some intermediary.

<sup>21</sup> In considering the question, Alsteric does not seem to be aware of some very curious things



copiously supply you."<sup>18</sup> Such passages suggest the close resemblance of Albert's methods of teaching to those of the northern grammarians. Bernard, in the episcopal school of Chartres early in the next century, John of Salisbury has described Bernard's emphasis on instruction in the handling of grammatical figures, rhetorical colors, and the proprieties of speech, the elements which constitute also the main theme of Albert's teaching as revealed in the *Flower Rhetoric*. And, by both, the reading of the authors is regarded as an integral part of their pupils' literary training, though each warns against carrying imitation to excess.<sup>19</sup>

In commenting on the classical learning of two other South Italian monks of the eleventh century, Alfons of Salerno and Guillelmus of Monte Cassino, Manitius has praised the grammatical purity of their writing and noted the strong rhetorical element in their works.<sup>20</sup> These same features in the intellectual resistance at Monte Cassino are revealed in the *Flower Rhetoric* of Albert the Doctor. His work reflects both that strong grammatico-rhetorical tradition and that revival of interest in the classics at the Abbey which are so clearly seen in the activity of her scripserum.<sup>21</sup> And it furthermore suggests the interdependence of these elements of Cassinese culture; for in advancing the doctrine which is designed to teach the art of writing well, Albert holds up the study of the classics as an essential part of the training of a scribe.

<sup>18</sup> Ibid., II, 100: "Quoniam ut patet in exemplis praesentium rationum et reliquorum scriptorum, constructionum. . . . Rationis reliquorum et quoniam reliquorum scriptorum rationes.".

<sup>19</sup> John of Salisbury's description of Bernard's teaching is found in *Metaphysics* I, cap. 44 (Migne, P.L., vol. 181, 105b); this text is conveniently given in Ed. Baur, *Lehrbuch der lateinischen Grammatik* (Paderb., 1904), pp. 184-185. The passage bringing out the similarity to Albert's teaching reads: ". . . in doctrinis historicis quod similes sunt et ad linguarum regularum rationem subiectis, figurarum praesentationem, rationum distributionem, methodicam compositionem. . . . Et quoniam quidem non solum est a propriis et ut . . . et a barbaris. . . . Quibus rationibus individualium grammaticarum compositione in prolixo et copioso latineque peritiam et rationem praeparat et verba polita multum habet. . . ."

<sup>20</sup> Cf. Manitius, *Handbuch der lateinischen Literatur des Mittelalters* (Munich, 1902), II, 497.

<sup>21</sup> *Ibid.*, op. cit., pp. 181, 17-18, of passage, and *Das Monach-Institut*, "L'apogée monastique de l'école Cassinienne Cassino," in *Philologiae Mediaevalis*, 1902, p. 191, and separately published, Monte-Cassino, 1902.

## ANALYSIS OF FABLES ABSTRACT

The following summary analysis of the *Fables Abstraites* is designed to afford some idea of the ground covered by Alberte, and to indicate the position of the classical quotations (listed by authors in footnote 884 in the progressing theme of the work. The instances where a quotation is quite clearly taken from *Isidore of Seville's Synonymes* are noted. Fable numbers refer to vol. Copenhagen G1. Kgl. Nord. 8444.

- I. Prologue: introduction of subject; author's promise of benefits and utility.
- II. Colours and population of the premises (Jals. 1-10): a) It should be shown from and give a history of the subject matter of the historic novelists. Examples: *Supplication*, prologue of *verones*; Virgil, *Aeneid*, I, 1; Boethius, *De Cons. Phil.*, I, 1. b) Reservation of certain things for later disposition in their proper place, as art in which Virgil and Terence shine. c) Use of *synonymes*, whence light will be derived for what follows, a manner followed by Bolland.
- III. Division of rhetoric (Jals. 11-16): a) *Exordium*, or *proemium*. Its whole point is winning the goodwill and attention of the reader or auditor by promising benefits and utility (examples: Bolland, *Jap.*, 3, 1), or by referring to one's own worthiness (examples: *Verones*, *Exord.*, prol., 13, 46-50). b) *Paraphrase*, or *argumentum*. c) *Conclusion*. *Exordium* on forms of *substantive*. Examples of forms of divisions of rhetoric: 1) *substantive*: Alberte's own, followed by Bolland, *Jap.*, *lib.*, 1-3, 15. 2) *substantive*: *Jap.*, *lib.*, 4, *Cap.*, *lib.*, 4.
- IV. Fable which quell the population and extinguish the splendour of the world (Jals. 17-18): *barbarismes*, *adverbium*, *adjective*, *conjunction*, *pronomen* (examples: Virgil, *Aeneid*, I, 140-141; from *Isidore*, *Syn.*, I, cap. 85; *Isidore's* *synonymes* (examples: *Isidore*, *Syn.*, VI, 4; and Virgil, *Aeneid*, I, 102, both from *Syn.*, I, cap. 84, 10-14).
- V. *Summa* or *Spuria* which obscure population and adorn the world. Various *Spuria* references are first taken up: *epitheta* under its manifold forms is illustrated by three passages from Virgil (*Aeneid*, II, 145; IV, 500; *Georg.*, VII, 10-12), and two from *Terence* (*Aut.*, III, 54; V, 58-61); all of these are found in *Syn.*, I, cap. 28, 4-17. Not in *Isidore*, however, are the *verones* from *Orid.*, *Met.*, I, 100-101, 104-105; II, 100-101, 104-105; IV, 100. The verse from *Orid.* illustrating *adjectives* (*Met.*, I, 10) is however from *Syn.*, I, cap. 10, 11, so also *Georg.*, IV, *Cap.*,



2, 1, 11, the examples for *callosa*. TERNER, *Flora*, I, 2, p. 22, and *Index*, I, 1, p. 127, are also used for this group.

- VI. *Figures arborescens* treated under the heading of 'tree' (cols. 4-19); *monophylla* (as in *Figures*, I, cap. 27, 1 stamp), *similitudo*, *oleo-remaripula*, *emphatica*, *alternata* (examples: Virgil, *Eclog.*, II, 82).
- VII. *Figures candelarum* (cols. 79-119); *allegoria* (cf. *Figures*, II, cap. 34, 1); a color of painting in which the element of emotion or of indignation predominates, illustrated from Lucan, *Pharsalia*, vii, 555-559; v, 535-539; ix, 575-579, 590-593, and from the *David*, iii, 58-57 (the last only from *Figures*, ii, cap. 11, 15); *permanens* and *transiens* (examples: Virgil, *David*, II, 553, 555-559, 561, 565-569, 581); *linea* of *allegoria* (examples: Virgil, *David*, I, 547, 553, 557-559, as in *Figures*, ii, cap. 4, 6); *callosa* and *protopopula*, illustrated from Ovid, *Fast.* III, 41, and in Cat., I, 27, both from *Figures*, ii, cap. 8, 12, and 13, 3; *brevis* and *multiplicata*; *comparata* or *similitudo*, as in *Lucan, Phars.*, I, 2, 121, 125-127 (see above, note 25).
- VIII. Consideration of remaining colors (cols. 119-119); *concreta* or *apocrypha* (examples: Virgil, *David*, iv, 558-559, and *Salustii, Cat. Cat.*, II, 55, 55, 1); *normalis proprietas* (examples: Virgil, *Eclog.*, ix, 55); *normalis* (examples: TERNER, *Index*, I, 1, v, 25); *allura* *veritatis* (examples: *Remus, Epist.*, ii, 2, vi, 279-279).

H. M. WILLARD



## WILLIAM OF THE WHITE HANDS AND MEN OF LETTERS

WILLIAM OF THE WHITE HANDS, archbishop of Rheims from 1176 to 1202, has long been acclaimed one of the most distinguished patrons of his age. Writers no less celebrated than Walter of Châtillon, Peter of Poitiers, and Peter Comestor dedicated works to him. Yet the archbishop's relation to the world of learning as a whole has scarcely received the attention that these names would suggest it might deserve. An exhaustive and critical catalogue of the scholars or literary men who received encouragement or protection from William has never been attempted. Nor have we been sufficiently informed of the extent and nature of his interests in learning and literature to venture an opinion as to his true position in the intellectual history of his age. Even a recent biographer all but neglects William the patron in favor of William the prelate and politician.<sup>1</sup>

The family of Rhin-Champagne was one of the most important of feudal France. William's three elder brothers, Henry, Theobald, and Stephen, were counts of Champagne, Rhin-Chartrain, and Senones respectively. Adela, one of numerous sisters, became the third queen of Louis VII, to whom she bore Philip Augustus. Few families could boast of greater devotion to learning and literature. Henry of Champagne not only instructed scholars but was also an enthusiastic student of theology and philosophy.<sup>2</sup> His wife, Marie, a daughter of Louis VII and Eleanor of Aquitaine, was the inspiration of a

<sup>1</sup> J. Michaux, *Guillaume ear Archevêque de Reims, Evêque de Chartres* (Chartres, 1902), in the series, *Revue des provinces de l'est de la France*. (Other accounts of William are given by Yves M. d'J. Saint, *Revue historique de la France*, vi, 104; G. Michx, *Revue de la ville, cult et université de Reims* (Reims, 1897-98), ii, 428 ff.; *Revue Champagne*, ix, 101 ff.; H. d'Arbois de Jubainville, *Revue des sciences et des lettres de Champagne* (Paris, 1898-99), i, 404-405; in 1901 a *Revue de la ville de Chartres* as regards the (Paris, 1900), pp. 17-21. William's political activities may be traced through the volumes of A. Courlet's *Philippe II, Auguste* (Paris and Leipzig, 1898-1902).

<sup>2</sup> *D'Arbois de Jubainville*, *ib.*, ii, 44, 5.

group of courtly writers to which Chrétien de Troyes belonged.<sup>1</sup> Theobald V of Blois-Chartres appears to have been a patron of the poet, Walter of Arras.<sup>2</sup> Moreover, the latter produced an excellent lyric poet of his own in Henry of Champagne's grandson, the corpulent Theobald of the days of Queen Blanche of Castile and the minority of Louis IX.<sup>3</sup>

William himself, like many another younger son, embarked on his career as an ecclesiastic at an early age. His advancement was rapid, owing, no doubt, to his influential connections. In 1140, when scarcely thirty, he was elected bishop of Chartres. Three years later he became archbishop of Sens. Nevertheless he was permitted to retain the see of Chartres together with his new dignity. This privilege was terminated in 1178 when he surrendered both Sens and Chartres to become archbishop of Rheims. In the meantime Rome had not overlooked him, Alexander III having appointed him legate in 1166. Two years later he made him cardinal-priest of St. Sabina.<sup>4</sup>

William's education appears to have been a careful one, though the details are obscure. It is sometimes asserted that he studied under Peter Lombard at Paris, but reliable evidence to that effect is lacking.<sup>5</sup> Nor is there much reason for believing that he himself composed a renotation of this master's scholastic *Christology*.<sup>6</sup> In general, there is little subjective material for a study of William's intellect. For most of our information we must accept the testimony of his contemporaries.

<sup>1</sup> As asserted of *Waldenburger* by E. Winkler, "Französische Dichtung im Mittelalter II, Marie de France" in *Monographien der Romanischen Philologie der Universität Erlangen* (Ermann, philol. Class. class. 1) 1901, no. 1. Also explained separately, *Notae*, 1212. Winkler attempts to identify Marie de France with Marie of Champagne. See Louis Fauriol's notice of Winkler in *Notae*, 1212, 122-23.

<sup>2</sup> W. Fauriol (ed.), *Sts and Saints in France from Louis IX, 1201*, *Revue*, no. 18.

<sup>3</sup> See *Not.* 121, 122, 332-334 (P. Fauriol).

<sup>4</sup> These facts are given by Malvern, pp. 7-11.

<sup>5</sup> Both Malvern (p. 11) and Chavet (p. 251) state this fact without giving adequate evidence of a scholastic bias. The important point that William played a role in the dissemination of the Lombard's scholastic doctrine is, in fact, largely responsible for the idea. See J. de Mailhac, *Le mouvement scolastique en France* (Paris, 1902), pp. 120-2.

<sup>6</sup> Karel Beyerle in his *Scholastic Theology* (Leiden, 1912), p. 474, credits William with such a work. As far as I know, however, no manuscript of it survives. I suspect that the assertion is false and that it is based on nothing more than William's part in the scholastic movement.

One of these was the celebrated economist and letter-writer, Stephen de Tournai.<sup>16</sup> The fact that over fifty of Stephen's surviving letters are addressed to William is sufficient indication of the intimacy of the two men. While most of these deal exclusively with ecclesiastical affairs, several prove the archbishop's solicitude for scholars. In one, Stephen calls William's attention to the sad predicament of a student, who, because of his attendance at school and consequent absence from home, is threatened with the loss of his paternal heritage by ignorant and prejudiced judges.<sup>17</sup> Needless to say, the dangers of such a precedent are duly emphasized. We know nothing about a Master Hugh of Novala who is made the subject of a second letter.<sup>18</sup> A third, of 1181-1184, seeks the archbishop's support for the celebrated theologian, Peter Cantor, who has been elected to the vacant see of Tournai.<sup>19</sup> Perhaps the most interesting letter of all, however, is one written in behalf of a Master Simon, *vir doctus solutus catholicus apertus*.<sup>20</sup> Part of this surely must have

Gravibus et commendabilibus sedunt cum libris auctoritas morum.  
Iste periculis litterarum. Tales rursusque illustri clarioribus vestris  
sacris, diligens, promerito. Chama hoc quod ab ipse caput ad  
mentem hinc urbis, cum Etruria et Liguria cum Italia, Peloponnesus  
major Anglorum, utroque Gallia Belgica et Cathaca in curia vestra  
coluntur aut morantur civitas, aut dignitatem honorum. Impletur aut  
cum illis gloriis vestris, qui ventum ab oriente et occidente, et terminantur  
in domo vestra.

<sup>1</sup> J. F. van Schooten has published Heidegger's commentaries on Heidegger, *Die Aussagen des Heidegger* (Freiburg, 1989). Heidegger's letters were published by Siegfried, *Philosophische Briefe*, 1962, and by Heidegger, in 1988. Several letters have remained by H. Krell and J. Dreyer, *Heidegger's Collected Works* (Freiburg, 1988), 1, 89–90.

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H. Phil., no. 97. This may have been Master Bligh of Kermadec whose claim to a house was recognized between 18 April, 1780, and 6 April, 1787, by a division of Blenheim Island of Cook. They were also mentioned by Bligh, about 1780, as being the same as Bligh's, in Cook's journals printed at Paris (Paris, 1800), I, nos. 103 and 105. A shorter journal of 1780 by Bligh, done at Paris, is concerned with the well of "Maître de l'Île de Kermadec." See H. Grouard, *Cronache di Napoli, Nazione e di Roma* (Rome, 1920), I, 192.

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© 2004, p. 46. The authors suggest (note 2) that Kilmorychan lies from the celebrated *Macdonalds of Trossachs*.



Another Italian who was on terms of familiarity with Will-  
iams, I never actually in his service, was Master Lombard of  
Piacenza, the friend and companion in exile of Thomas à  
Becket. According to Herbert of Bosham, Lombard was the  
most learned of Becket's followers. During the dreary days of  
exile both Thomas and Herbert received instruction in canon  
law from him.<sup>17</sup> Williams of the White Horse, both as bishop of  
Chartres and as archbishop of Sens, was one of the staunchest  
supporters of the archbishop of Canterbury in his struggle with  
Henry II.<sup>18</sup> After November, 1166, the English prelate made  
his residence at Salerno-Colonna near Sens. It was this fact,  
no doubt, that brought Williams into intimate contact with the  
archbishop in his following. John of Salisbury, in a letter of Janu-  
ary, 1168, informs us that Lombard is to be found in the family  
of the archbishop of Sens.<sup>19</sup> Moreover, Lombard's name ap-  
pears among the witnesses to one of Williams's charters of ap-  
proximately the same time.<sup>20</sup> Later he became a cardinal and  
archbishop of Beneventum.<sup>21</sup>

Peter of Poissy, who became cardinal of Saint-Chrysogonus,  
was a man of learning as well as of practical ability.<sup>22</sup> Though  
there is no indication that he was ever a member of Williams's  
circle, it was due mainly to the latter's influence that he became

documents between 1 April and 11 November, 1161 (Jaffé-Lorenzelli, *Regesta Pontificum Romanorum* [Leipzig, 1885-88], i, 474).

<sup>17</sup> Herbert of Bosham, *Vita Sancti Thomae*, *opusc. vii*, "De Cantuarii Studiorum Thoma" in J. C. Robertson, *Materials for the History of Thomas Becket* (Oxford, 1875), ii, 361 ff. See the biography of Becket, see L. Halévy, "Les Biographies de Thomas Becket" in *Revue Historique* vii, 185 ff., and P. Waibling, *Leviti de Sens* (Paris in *Monographie pour l'Université de France* [Paris: Librairie de la Sorbonne, 1902], 1903), 1903, ch. 1.

<sup>18</sup> *Materials*, p. 61; *Revue*, vii, 185.

<sup>19</sup> Robertson, ii, 367.

<sup>20</sup> *Quartus*, *Cart. pbs.*, 2, 103.

<sup>21</sup> Herbert of Bosham, *Reliquiae*, 11, 104. Herbert's biography was written between 1166 and 1169 (*Reliquiae*, 11, p. 100). Lombard's name does not appear among the names of the archbishops who attended the coronation of Alexander III or his consecration (J. Jaffé-Lorenzelli, ii, 361 ff., 461 ff.). According to P. Waibling, *Leviti de Sens* (Paris: Librairie de la Sorbonne, 1902), p. 190 he was archbishop of Beneventum from 1171 to ca. 1177.

<sup>22</sup> The biography of Peter of Poissy, see H. Halévy, "Pierre de Poissy légende ou légende historique" in *Revue*, vii, 1-41, and "Le légende Pierre de Poissy, légende de Chartres" in the same periodical, ii, 224-226. See also Chérel, *Les évêques de Chartres*, pp. 292 ff.

Bishop of Meaux in 1171.<sup>16</sup> Nevertheless relations between the two men did not remain cordial. After Peter had become cardinal, he attempted to retain the revenues of Meaux. Against this William protested vigorously to Alexander III.<sup>17</sup>

The sojourn of Becket in France appears to have been the origin of William's intimacy with a number of learned men who were natives of the British Isles. Primarily, the bond that united them was a common sympathy for the cause of Becket, rather than a common appreciation of letters. Yet the two interests cannot be sharply distinguished. John of Salisbury, one of the most eminent scholars of the twelfth century as well as a devoted follower of the exiled prelate, was, as his letters show, on terms of familiarity with William.<sup>18</sup> It was the latter's influence, moreover, that made him bishop of Chartres in 1175.<sup>19</sup> Nevertheless it is impossible to determine whether the relations between the two men were based on anything more than participation (upon the same side) in the controversy between Henry II and his archbishop of Canterbury.

Between William and Herbert of Bosham relations may be shown to have been more definitely intellectual. Not only did Herbert write letters to and for William,<sup>20</sup> he also dedicated to him, as archbishop of Sens, the revisions he had made of Peter Lombard's glosses on the Psalter and on the letters of St. Paul.<sup>21</sup> As the preface to the work on the Psalter has Becket not only a martyr but a saint,<sup>22</sup> it must have been written after February, 1173, the date of his canonization. The revision of the glosses

<sup>16</sup> Letters of Peter of Celle, *Wigay*, vol. IV.

<sup>17</sup> Letters of Alexander III, *Wigay*, no. 1100.

<sup>18</sup> *Wigay*, vols. nos. 1001, 1002, 1003.

<sup>19</sup> See the letter of Peter of Celle heading "William the Exile's request about the election of John," *Wigay*, vol. no. 1001, and a letter of Henry III to John of Salisbury dated, vol. no. 1001, 1002.

<sup>20</sup> Letters of Herbert of Bosham, *Wigay*, nos. nos. 9, 10, 11, with vol. 1001. See Bosham's biography, *Wigay*, vol. 1001, 1002, and *Early English Literature in the University of Cambridge*.

<sup>21</sup> The preface to both works was published by Lincolns College from 1820, 1821, 1822, and 1823. Trinity College, Cambridge in *Journal des savants*, 1822, pp. 754-755. Herbert's revision of the glosses on the Psalter was in two parts. The first only is at Trinity College. The second is at the Bodleian. The Latin preface to it was published by *Wigay*, vol. 1001.

<sup>22</sup> *Journal des savants*, 1822, p. 754.



on St. Paul was apparently finished earlier. Herbert's taste for his master, the "seismotype,"<sup>10</sup> seems to be still fresh and we cannot be far wrong in concluding that the work was written in 1171 or 1172.

Another companion of Herbert who attracted William's attention was the Welshman, Alexander Caelin (Llewellyn?) or Wallewale. The sole indication of his intellectual attainments is his inclusion in Herbert of Brecknock's catalogue of the useful who accompanied Thomas. Here he is described as "Electus apud in Materiam, perinde ut in verba et in verba perinde nullum."<sup>11</sup> As the literature of the Herbert controversy shows, Alexander played an important part in the events which culminated in the murder of the prince. He and Gualter of Winchester were dispatched by William of the White Hands as bearers of the truce news to Alexander III.<sup>12</sup> After this he appears to have been definitely attached to our archbishop, whose charter he attended in 1174,<sup>13</sup> 1174,<sup>14</sup> and 1176.<sup>15</sup> Moreover, it seems probable that this Welshman was the Alexander, chamberlain of the archbishop, whose name is found in William's charter as archbishop of Rheims from 1178<sup>16</sup> to 1180.<sup>17</sup> He must have died or resigned soon after the last date, for in 1180 the office was held by Lambertus of Bruges.<sup>18</sup>

William's acquaintance with British men of letters was not confined to the followers of Herbert. As a young man, probably ca. 1154, Germain of Tilbury, author of the *Omnia Imperatoria*, was a member of his curia.<sup>19</sup> Though the celebrated Walter

<sup>10</sup> *Journal de numism.*, 1894, p. 797.

<sup>11</sup> *Notarius*, II, 108.

<sup>12</sup> *Ibid.*, vi, no. 100000.

<sup>13</sup> *L. Dugès, Histoire de chartes et documents de Saint-Martin des Champs* (Paris, 1816), vii, p. 100; *Le Maître et le Maître, Catalogue de l'église de Saint-Martin des Champs* (Paris, 1817), I, 11. In both of these his appointment is 1174.

<sup>14</sup> *Quartier*, *Chart.*, 100, II, 100.

<sup>15</sup> *Notar. et Litterar.*, *Notar. de chartis*, I, 11.

<sup>16</sup> *Notar. et Litterar.*, *Notar. de chartis*, I, 11.

<sup>17</sup> *Ibid.*, *Notar.*, II, 100.

<sup>18</sup> *Chronology of Ages*, B.C., 100, no. 1000, col. 11.

<sup>19</sup> See W. Hunt's article in *Dictionary of National Biography*. The evidence for Germain's presence in William's curia is a rather circumstantial one: that he himself related to Ralph of Coggeshall. *Historia de regibus Anglorum* (London, 1808, 2nd ed.), p. 149. This date is suggested by the mentioned appointment for "pallium" or "patrium" in which William was once active. See *Notarius*, p. 100.

Map was never in William's service, he was apparently well acquainted with him, for he narrates an anecdote which he had heard from the prelate.<sup>10</sup>

Our list of names from "both Cards" is somewhat longer. In spite of the fact that five of Stephen of Tournai's letters are to him, Lambert, or Lambinus, of Bruges,<sup>11</sup> who took Alexander's place as William's chancellor until 1189, when he himself became bishop of Thérouanne,<sup>12</sup> is a very indistinct figure. More worthy of our attention is a Master Berter (Berterus) with whom Stephen also corresponded.<sup>13</sup> Though they are addressed to Berter as archdeacon of Cambrai, Stephen's letters prove that he was in close attendance upon William.<sup>14</sup> The charter of Theobald of Anjou already cited confirms this.<sup>15</sup>

Are we to identify this Master Berter with a Master Berter of Orleans who expressed his zeal for the Third Crusade in a poem preserved for us by the chronicler known under the name of Benedict of Peterborough?<sup>16</sup> Scattered sources make it pos-

<sup>10</sup> *De Rege Richard* edited by H. R. Jones, 1874, *Anglo-Norman Studies*, vol. 1, p. 105.

<sup>11</sup> *Mapa*, vol. xii, cols. clxxx, clxxxv, and 71, several others.

<sup>12</sup> *Index Christianus*, v, 1111-12. There is little indication when William's chancellor was ever before 1179. Chival calls attention to a William, "chancellor of the king" (generally it is mistaken in a letter of 1188 also taken as Charles's, p. 104). I decide instead by William's appointment of him in 1181 now observed by "Regius Bernardus monachus Anglorum monasterii Sancti petri in brugia"; L. Berth, *Archiv für Geschichte in Brügge* (Paris, 1888), p. 4. This is very probably a correct date. Another of William's charters, it is to St. Stephen, Rou. 100, also is taken as Charles's. Chival, v, 100, is entitled by "Benedictus de Regis regis archidiaconi." The same pair of charters also appear in a charter of 1174 (Chart. de Rouen, Chart. de Rouen de Pierre Berterius Ficus de Rouen, L-61), and "Regius archidiaconi" was among William's followers at Rouen in 1182 (ibid., cols. 105). Regius the chancellor of the decision of 1179 should probably be connected to Regius the archidiaconi. Berterius was chancellor from 1179 to ca. 1185. Lambinus succeeded him, and 1189. A charter of William, dated 1186 given by name of Walter as chancellor (L. Chantemesse-Labbey, *Chart. de Rouen* (Paris, 1888), "Index premissus," p. 10), but he is found in no other document. Between 1184 and 1187 William appears to have had no chancellor. For the charters in F. Vais, *Archiv für Geschichte des Mittelalters* (Paris, 1888-89, *Revue de l'histoire de France*), 1, part 1, nos. 100-101, 102, 103. In 1188 his chancellor was Richard (R. Truitt, *Anglo-Norman studies* (Paris, 1885), I, 101). In 1189 as William's chancellor in 1189, the year before William died (Paris, I, part 2, no. 1).

<sup>13</sup> *Mapa*, vol. xii, cols. xcvi, xcvi, cv, xcvi, xcvi.

<sup>14</sup> *Index*, no. xcvi (xcvi), for example. Stephen says Berterus interacts with William in a matter in which he himself first met him in approach him.

<sup>15</sup> *Index*, no. 65.

<sup>16</sup> *Chart. Regis Richard* already cited by W. Stubbs (London, 1887, *Rolls Series*, I, 44-45). Regius of Rouen copies the poem from Benedict. Chival, edited by W. Stubbs (London, 1888-71, *Rolls Series*, part 2, pp. 100-101).

able to establish several points in the poet's biography. In 1170 he was in the service of Henry, the Young King, by whom he was dispatched to Rome to oppose papal confirmation of the elder Henry's selections to vacancies in the English episcopacy. Alexander III was inclined to find fault because only two of the candidates had actually come to Rome. He asked especially why the bishop-elect of Ely, Geoffrey Ridel, was absent. Peter Berton of Orleans interposed that he had a Scriptural excuse. To Alexander's query what it might be, Berton wisely quoted St. Luke, xiv, 28, "He has married a wife and therefore cannot come." In spite of this due to the machinations of the bishop-elect of Ely, Alexander confirmed the elections.<sup>16</sup> Berton of Orleans also appears in charters. One of indefinite date issued by Geoffrey, Count of Chartres, informs us that he was canon both of Chartres and of Sainte-Croix of Orleans.<sup>17</sup> In a charter of 1187-1188 Philip Augustus calls him "our clerk,"<sup>18</sup> and he is mentioned again in a royal charter of 1188-1189.<sup>19</sup> Finally, an obituary of Saint-Benoît-sur-Laine mentions a Berton of Orleans whose anniversary was established between 1188 and 1212.<sup>20</sup>

The problem of identification is complicated by the fact that between 1186 and 1189 the abbot of Saint-Evroult of Orleans was also a Berton<sup>21</sup> with whom Stephen of Tournai corresponded.<sup>22</sup> It is improbable, however, that he was either the archdeacon of Cambrai who was in the service of William of the White Hands, or Berton of Orleans. According to Bernold, the historian of Saint-Evroult, the Berton who became abbot was

<sup>16</sup> Reges of Henricus, Chronica, part 8, pp. 26-28. Bernoldus of Hirschingen, Gesta Henrici, not exclude this possibility, though it forestalls here Richard, Bishop of Chichester, and Wynghelm, the elect of Bath, and put the blame for papal confirmation of the elections (p. 28). "We think Berton is the 'English clerk,'" mentioned here later concerning this same affair. See R.E., vol. 199-200.

<sup>17</sup> E. Valler and E. Jarry, *Cartulaire de l'abbaye de Sainte-Croix d'Orléans* (Paris, 1901), no. 149E.

<sup>18</sup> E. Bernoldus, *Monasticon urbis de Philippo-Augusto* (Paris, 1818), I, 262 E.

<sup>19</sup> *Ibid.*, pp. 324 E.

<sup>20</sup> E. Valler and E. Jarry, *Cartulaire de la paroisse de Saint-Evroult d'Orléans* (Orléans, 1900), p. 143.

<sup>21</sup> *Idem Bernoldus, Episcopus de l'abbaye episcopale de Saint-Benoît d'Orléans* (Orléans, 1818), p. 288.

<sup>22</sup> *Idem, op. cit.*, nos. 161 and 162 and are addressed by "Bernardus abbas (S. Evroulti)"; nos. 161, 162, and 163 are an abbot of Saint-Evroult, probably Bernold.

already prior in 1192.<sup>20</sup> This being so, it is not likely that he was the archbishop of Cambrai to whom three of Stephen of Tournai's letters were written after 1192.<sup>21</sup> Nor is it probable that this prior of Saint-Everme was the Hector of Orleans who appears simply as "our clerk" in the royal charter of 1187-1198.

It is impossible to prove that Hector, archbishop of Cambrai, and Hector of Orleans were one and the same. There is, however, considerable probability that they were. It is worthy of note that Hector of Orleans was canon of Chartres, of which William had been bishop. Moreover, the important place that William held in the government of Philip Augustus does not make it unlikely that a clerk of the archbishop might be called "our clerk" in a royal charter. Finally, the name Hector was by no means a common one, as a glance through the indices of the great collections of medieval sources will reveal. Yet ultimately the identification of the two men is not proved.

Walter of Chatillon was one of the most accomplished poets of the twelfth century.<sup>22</sup> His great epic in ten books, the *Alexandriade*, is dedicated to William as archbishop of Rheims.<sup>23</sup> Apparently the poem was completed ca. 1190.<sup>24</sup> In the fol-

<sup>20</sup> Bédely, p. 302-303. The references given by M. Bédely are rather confusing. He states that Hector was prior in 1192 under abbot Roger and refers us to *Annales Chateaux*, viii, 1093, 1297-1303, but the chapters published here do not mention his statement. Presumably he was completed with the same chapter in a more complete form than that given by the *Annales Chateaux*.

<sup>21</sup> Migne, xvi, col. 695, col. 696, col. 697.

<sup>22</sup> There are several biographies of Walter. The most important are J. G. Millière, *Le Poète Angevin Philippe (surnommé) et Jeanne dame de Chatillon* (Paris, 1881); E. Hagen, *Walter von Chatillon (Studien)*, 1893. The article by A. Fagnon, "Recherches sur quelques personnages médiévaux (XII<sup>e</sup> et XIII<sup>e</sup> siècles)" in *Revue de la littérature de la Belgique* (the volume is a reproduction of the *Revue de Litt.*, v, 1897-98) is not without merit. The work of L. Hagen, *Le P. Jeanne et Jeanne dame de Chatillon* (Louvain, 1897), is more literary than critical. On Walter's short poems, see H. Bédely, "Notes sur les poèmes de Walter de Chatillon" in *Revue de la littérature de la Belgique* (the volume is a reproduction of the *Revue de Litt.*, vi, 1898-99), and especially René Renard, "Walter von Chatillon die Dichter des Lyones von H. Bédely," in *Zeitschrift für deutsche Philologie und deutsche Literatur* (Munich, 1901), also "Walter von Chatillon und seine Schule," *ibid.*, li, 1902, and liii 2. The poems of the *Revue de Litt.* are published by the same author, *Revue de la littérature de la Belgique* (Louvain, 1902).

<sup>23</sup> The best critical analysis of the *Alexandriade* is that of R. Christmann, *Die alexandrische Weltreise von Philippe (Hagen)*, p. 1, 1905. See also Carlo Bédely's study of the poem, *Alexandriade de Philippe de Chatillon* (Naples, 1907). No. 59 of the *Revue de la littérature de la Belgique*, *Revue de Litt.*, pp. 107-109, mentions William's translation from Latin to French.

<sup>24</sup> Christmann, pp. 4-5.

fourth century the *Alexandriensis* was a great favorite in the schools, even supplanting the classics themselves. This popularity accounts for the large number of well-preserved manuscripts of the work that have survived. The primary facts in the career of the author may be learned from these glosses. He was born near Lille. He studied under a Master Stephen, canon of Beauvais. He married a wife at Châtillon where he wrote commentaries. Then he went to study law at Bologna. Returning to France he won the favor of William of the White Hands who secured for him a prebend at Amiens. He died of leprosy.<sup>16</sup>

Considerable confusion has arisen from the presence at the court of Henry II of England, between 1155 and 1172, of a Master Walter of Lille, assistant to the chancellor, Geoffrey Ridel.<sup>17</sup> Still, none of the biographical notes in the manuscripts of the *Alexandriensis* connect Walter of Châtillon with the English court. Moreover, it is difficult to see how a man who had such abundance for the murder of Becket could have found the proximity of Henry II congenial after 1172.<sup>18</sup> It is more probable that Walter of Châtillon was "Master Walter, clerk of the archbishop" mentioned by John of Salisbury in a letter of 1156.<sup>19</sup> Yet one should avoid the finality of Runciman in concluding, "Il est constant que Guichard de Châtillon vint s'établir dans la ville de Reims en France 1156 et ne quitta plus la France, où il mourut."<sup>20</sup>

Among the glosses in two manuscripts of the *Alexandriensis* is an

<sup>16</sup> These biographies may be useful, though in general they agree. For variations, see Pappe, pp. 4-5.

<sup>17</sup> E. F. Bédier, *Revue des études de Henri II, roi d'Angleterre et de France* (Paris, 1898), introduction, pp. 104-5. This Master Walter of Lille appears frequently in the marginations of the Becket manuscript. See Robertson, v, 265, n. 1-11, 267-68, 342-50, vi, 374-82.

<sup>18</sup> Bédier, *Revue des études*, vi, 37, pp. 27-8. Walter may also have been author of the *Summa*.

"ne qui parit parit in paritibus  
et non intrat in ipse domum."

See R. G. Winstanley, *Die lateinische des Walthers von Lille* (München, 1895), no. vi, p. 36. These two poems are ascribed to Walter in R. G. W. ibid. pp. 36-37. Bédier (ibid., note 18) argued that he could not have been the author of all two. But a recent opinion (discussion of Bédier, see Bédier, "Walter von Châtillon und seine Schule," *ibid.* cit. note 18).

<sup>19</sup> Letter to Richard, archbishop of Paris; Robertson, v, 265.

<sup>20</sup> *ibid.* vi, p. 375.

anecdote in which both Walter of Châtillon and Master Berter figure as members of William's court.<sup>6</sup> The two were bitter rivals. When William dispatched Berter to Rome to transact business with the curia, Walter was apprehensive lest his rival should secure favour from the pope. Accordingly he scribbled something on a piece of parchment, sealed it, and handed it to Berter with the understanding that the seal should be broken only in the papal presence. Berter apparently was a man of his word. When the parchment was unfolded, the following verses were revealed:

Roma apert rotas  
 Que tanta habuit clera  
 Lucis innotuit,  
 Contemplans molera,  
 Scilicet Gallorum.  
 Et sic est dicit verum,  
 Sape solent erant  
 Deum fides, sedet ad Romanum.  
 Nec tam tunc erant,  
 Sed quoniam tanta erant.  
 Reddit, et videtur  
 Debetis huiusmodi clera . . .

Thus Walter sought to call attention to himself. William, however, was much annoyed at his clerk's temerity and discharged him from his following. It was to recapture his lover, states the anecdote, that the *discreetiviel* was undertaken.<sup>7</sup> Such an origin of the epic is implausible. Moreover, the rather crude and obscure verses hardly suggest Walter of Châtillon. Nevertheless the rivalry of Walter and Berter may have had a basis in

<sup>6</sup> R.C., MS. lat. 1045 (about 1080, lat. 1080 and 1085 (11th century). In 1080 the anecdote appears less fully than in the version of the 1085 MS. It is so curious to be practically unique. In 1085 it followed by lat. 1086, which it may be said with little mistake. Walter's biographers seem to have overlooked the anecdote. Another connection between Walter and Berter may perhaps be found in one of the two poems mentioned above. There is Master Berter's poem, which is possibly as near to Berter's. Berter, "Walter von Châtillon und sein Dilemma" p. 128, assumes that Berter is intended. In the only MS. besides the Paris one, which I have seen (Oxford, Bodleian, MS. Digby 126, lat. 1080), the name is Berterius.

<sup>7</sup> The anecdote given by us is an alternative version of the version which produced the *discreetiviel*. According to this, Matthew of Vendôme and Walter of Châtillon conspired to see which could produce the better poem. The contest was the *discreetiviel*, the latter the *discreetiviel*.

fact, especially if the latter was the Master of Orleans who composed the crumpling poem already mentioned.

The medieval poverty in distinctive personal names is a source of infinite confusion. A case in point is that of the two Peters of Blois. The more famous one was archbishop of Bath and has left us a much disputed collection of letters.<sup>10</sup> The second is known for the most part from these same letters.<sup>11</sup> Both Peters were connected with Chartres and both appear to have made the acquaintance of William of the White Hands. It has been suggested that the first Peter travelled in William's company in 1149 from Rome to Bologna.<sup>12</sup> At any rate, one of his letters shows that he had been offered, through a Master Gerard, a place in William's circle and a position at Chartres.<sup>13</sup> The archbishop, however, was dissuaded from his promise by a certain G., much to the chagrin of Peter.<sup>14</sup>

Was it the first Peter or the second who dedicated a *Synodus Parva Canonica* to a patron designated simply as *Domine Reverend*?<sup>15</sup> Rehm concluded that the treatise was written in

<sup>10</sup> Cf. Peter, archbishop of Bath, *scripta* C. 1. Reprinted in *Scriptorum de Pastoralis Regimine*, ed. J. Rehm, *Synodus Parva Canonica* (London, 1901), 46, v. The most recent critical examination of Peter's letters is that of Cohn, "The Manuscript Tradition for the Letters of Peter of Blois," in *MLA*, vii, 48 ff. I am aware of the danger in using these letters until their reliability has been proved. It seems probable, however, in any event, that these letters played for Cohn in Peter's final collection and were those in the second.

<sup>11</sup> *Wages*, xviii, 100, 100v, 100v, and 101. The first two were written to him; the third to a John of Salisbury. Cohn (p. 84) goes over to the first collection; 100v and 101 to the second.

<sup>12</sup> Cohn, p. 86.

<sup>13</sup> *Wages*, xviii, 100, 100v (first collection). The date of the letter appears to have been ca. 1149 (Rehm, n. 106). Gerardus, in a note, identifies the Master Gerard mentioned with Gerard Pothe. It is more probable that he was the Master Gerard, archbishop of Vienne whose name occurs frequently in William's statement of this point. See, for example, *Regula*, *Reg. de stud. et disc. de Saint-Martin-de-Champs*, B. 105, *Quarta*, *Qua. pte.*, B, 109. I have been unable to discover that Gerard Pothe occurred in William's circle.

<sup>14</sup> *Wages*, xviii, 100, 101 (first collection). Peter also mentions his disappointment in letter 10, 100v, p. 100 (first collection).

<sup>15</sup> The treatise was edited and published by R. A. Rehm, *Parva Synodus Canonica de Regularibus*, in *Monasterii Antiquarium Bibliotheca*, etc., 1901, vol. 1, *Synodus Parva Canonica* (Berlin, 1901). The preface and selection from the body of the treatise had already been published by Lagumby: "Die Parva Synodus Canonica des Vincentii Bona Canonici," in *Monasterii Antiquarium Bibliotheca*, etc., 1897-1900. For a discussion of the sources of the work see J. P. van der Meer, *De Synodus des Quilley und Liberius des monasterii Bado* (Maastricht, 1912), 1, 107-108. Rehm

1180.<sup>27</sup> Though such precision seems unwarranted, there can be little doubt that the *Speculum* appeared between 1176 and 1181,<sup>28</sup> that is to say, while William was archbishop of Rheims. Accordingly the work was dedicated to him. It is hardly necessary to add that the interest in canon law and other sciences which the author attributes to his patron harmonizes perfectly with all we know of William. A charter already cited shows that there was a Peter of Blois in his retinue at Amiens in 1180.<sup>29</sup>

All things point to the second Peter rather than the first as author of this treatise on the canon law. In the first place, it is improbable that the archbishop of Reims would have dedicated a work to a prelate who had so bitterly disappointed him. Nor do the traits of the writer as they stand revealed in the *Speculum*, accord with his somewhat narrow and severe point of view.<sup>30</sup> Peter, archbishop of Reims, moreover, though he does not hesitate to speak of his own writings, nowhere mentions such a man.<sup>31</sup> Finally, the author, who was writing at Chartres, refers to a *monasterio insigni et sollicitudine*<sup>32</sup> which may well have been the office conferred on the second Peter by John of Salisbury upon becoming bishop of Chartres.<sup>33</sup>

must not be slighted, that of the public library of Bamberg. Lequand (p. 288) mentions another, among the libraries 5000 of the British Museum, but I have been unable to find any trace of it. Van Slooten (p. 207, note 1) calls attention to still another, at Bamberg. This appears in the *Verlag der Kaiserlichen der Reichlichen Bibliothek zu Bamberg*, ed. F. Lechmann (Bamberg, 1895), I, 261. I regret that I have been unable to compare this MS. with the one cited by Bellon.

<sup>27</sup> Introduction, p. 251. Bellon told that "*Speculum Speculorum*" was Henry, William's predecessor, on the ground that a letter of Alexander III, dated 1180, is addressed to him. Later the letter is wrongly dated as the same Henry is a mistake for that archbishop-elect of November, 1175.

<sup>28</sup> The absence of any reference to the compilation of Bernard of Clairvaux makes it highly improbable that the treatise was written much later than 1180. There are, however, references to the abbot in the *Third Lateran Council*, a compilation that appeared between 1181 and 1184. See Van Slooten, "*Beitrag zur Geschichte des canonischen Rechts von Justinian bis auf Bernhard von Clairvaux*," 2, Appendix Councils (Louvain), in *Monographien der Kaiserlichen Akademie der Wissenschaften, phil.-hist. Klasse*, lxvii, 489-491.

<sup>29</sup> *Ibid.* note 18.

<sup>30</sup> Bellon, Introduction, pp. 251-252.

<sup>31</sup>For, for example, the "*Introitus in Expositionem Operum Bernardi*," Migne, *xxvii*, 1 and 2.

<sup>32</sup> Bellon, p. 1.

<sup>33</sup> Letter of Peter of Blois to John of Salisbury, Migne, *xxvii*, no. 255 (second volume, 1180).



It is indeed unfortunate that the second Peter of Blais is as slightly known. The descriptions left us by the archdeacon of Bath picture him as a man of note in the intellectual and cultural world.<sup>12</sup> The lack of appreciation for theology, so much deplored by the first Peter, makes him more attractive rather than less to this day and generation. There seems to be little reason for identifying him with the clerk who was in the following of Eleanor of Aquitaine.<sup>13</sup> The statement that he was chancellor of Chartres was disproved some time ago, though it has been repeated quite recently.<sup>14</sup> It is not improbable, however, that he is the Peter of Blais whose monastery on 28 November appears in a necrology from Chartres.<sup>15</sup>

Another of William's clerks was a Master Garnerus, or Garnesius. By the archbishop's request the cathedral chapter made him scholastic of Rheims. At the same time he received as annual grant of two measures of grain from William's mills.<sup>16</sup> Later the amount was increased to five and a stall in the choir was reserved for Garnerus and the scholastic who should succeed him.<sup>17</sup> The last concession was officially important to receive the confirmation of Philip Augustus in 1184<sup>18</sup> and of Colman III in 1190.<sup>19</sup> Though Garnerus' name appears in other charters, little of interest is to be learned of him. Possibly he was the grammarian, Garnesius, cited by Peter Cantor in the *Parvus Almonarius*.<sup>20</sup> Almost surely he was the "Man-

<sup>12</sup> See, for example, Migne, *coll.* 222, no. 1200.

<sup>13</sup> *Colin*, p. 26.

<sup>14</sup> *Ballmann*, p. 213. It was disproved by H. Berman, "The chancery of Chartres against Pierre," in *Chartres studies*, 27, containing the transcription of André Gauthier, *ibid.* series 1, 460 ff.

<sup>15</sup> R. de Epinalis and L. Wolff, *Cartulaire de l'abbaye de Chartres* (Chartres, 1893), II, 414. It was probably this second Peter also who attended a chapter of the school of Blais in 1188, *ibid.*, I, 387.

<sup>16</sup> *Cartulaire de la cathédrale de Rheims*, 270, 271, n. 1, 272, 273, 274, 275, no. 271. "Per Magistru[m] Garnesiu[m]." Notice with attention to this in other charters of the same monastery. See, for example, *ibid.* 276 and 277, 278.

<sup>17</sup> *Ibid.*, 277, 278. This charter is published in *Revue Chrétienne*, n. 1, *introduction*, p. 21, and elsewhere.

<sup>18</sup> *Cartulaire*, *ibid.*, the same in Phil. Aug., no. 227, p. 215.

<sup>19</sup> See *Notae Archiep.* 21, 22. The entire text of the charter begins by the archdeacon of the church mentioned above, no. 23.

<sup>20</sup> Migne, *loc.* 222.

ter G., scholastic of Rheims<sup>10</sup> to whom Gervase of Pontrevel wrote in behalf of a Master Peter who was seeking permission to teach canon law at Rheims.<sup>11</sup> The day of Gervase's death appears to have been 28 September.<sup>12</sup>

In all probability we should add the name of Master Arnold of Blois to our list of William's followers. At least he is found representing the archbishop in 1180 when Renaud of Roucy returned certain lands he had taken from the priory of Châtillon-Parcien.<sup>13</sup> He is also found acting as arbiter in a dispute between two abbots,<sup>14</sup> and, from a cartulary of the diocese of Rheims, we learn that he was a holder of land in the village of Foulmout.<sup>15</sup> A necrology from Rheims gives his anniversary as 1 October.<sup>16</sup> Not improbably he was the Master Arnold of Blois to whom one of the letters of Peter of Blois was written.<sup>17</sup> Peter describes him as *juris civilis peritissimus*.

William's relations with men of letters extended beyond his own circle. An archbishop of Sens he confirmed the rights and privileges of his "dear son" Stephen in the prebendary of Saint-Gilles of Provins.<sup>18</sup> Stephen seems to have been the man who was chancellor of Henry the Liberal of Champagne from 1170 to 1176,<sup>19</sup> and the clerk with whom Helinand of Froidmont had a heated dispute as to the rival merits of St. Bernard and Gilbert de la Porée.<sup>20</sup> Helinand informs us that he was "*exercitissimus in omni genere facierum utriusque Linguae Latine et Gallice*." He was a canon of Beauvais and was per-

<sup>10</sup> C. Hugu, *Œuvres Antiquaires Monacales* (Reims), 1902, I, 104 ff.

<sup>11</sup> See the reference to P. Vatis, *Arch. dip. de Rheims*, I, 2, pp. 10 and 119.

<sup>12</sup> E. Bata, *Chartes de l'abbaye de Saint-Remy de Reims* (Reims), 1893. Some manuscripts give exact information as to dates (I, nos. 101 and 102).

<sup>13</sup> *Ibid.*, pp. 102 ff.

<sup>14</sup> Cartulary of the diocese of Rheims, fol. 7-8v. These charters, all of 1181-1182, were published by Vatis, *Arch. dip.*, I, nos. 101ff., 101a, 101b, and 101c.

<sup>15</sup> Paris, *Arch. des. In.*, I, 2, pp. 42 and 149.

<sup>16</sup> Hugu, *Œuvres*, no. 102, p. 102 (first collection). Several (p. 102) identify Master Arnold of Blois with Arnold, nephew of Peter of Blois and abbot of Saint-Lumain. There appears to be no reason for this identification. Certainly, exact and precise are adjectives definitely in Arnold. Peter's nephew, no, but in addition to "*Christianus* with its more negative French element."

<sup>17</sup> *Epistolæ* in *la ville de Provins*, MS. 55, chapter no. 1.

<sup>18</sup> *Œuvres de Helinand*, II, 176.

<sup>19</sup> Helinand of Froidmont, *Œuvres*, Hugu, nos. 102.

kings the Master Stephen who had been the teacher of Walter of Châtillon.<sup>100</sup> No doubt he is to be distinguished from a Master Stephen of Provins who attested a charter of William in 1174.<sup>101</sup>

William was in correspondence with men whose names hold more conspicuous places in the intellectual history of the twelfth century. Peter of Celle's letter congratulating him on having supported John of Salisbury's candidature to Chartres has already been mentioned.<sup>102</sup> Moreover, although William seems to have opposed the election of Peter Cantor as bishop of Tournai, he later (ca. 1180) wrote him a cordial letter pressing him to accept the vacant see of Rheims.<sup>103</sup> Nicholas of Chirac also appears to have been acquainted with the cardinalship, for a letter of his is a promise to visit him soon at Rheims.<sup>104</sup>

The most convincing argument for William's devotion to learning remains the works that were dedicated to him. The Scriptural commentaries of Herbert of Bosham, the *Alexandriid* of Walter of Châtillon, and the *Speculum Juris Canonici* of the second Peter of Blois have already been noted. But there are others. Peter Cantor, because of his long connection with Troyes,<sup>105</sup> probably knew William personally. His *Scholastic*

<sup>100</sup> Belland tells us that he was master both of Beaumont and of Salisbury from 1166 to 1177 (*Katalog of Beaumont, B.N.*, MS. lat. 1077, fol. 10 and 111). It may be the master who wrote the letter in 1174, a secretary of Beaumont, or Count de Marcy. "Belland et moi des distinctions de l'apostrophe de Beaumont," in *Revue de la science caennaise* (1906), vii, 176. None of the marginal supplements "Walter of Châtillon wrote that a Master Stephen, master of Beaumont, was Walter Cantor" (*B.N.*, MS. lat. 1077, fol. 11, v. 1077, fol. 104, v. 1077, fol. 106). Belland infers from this the Stephen with whom he argued had actually been present at the trial of Walter de la Mare at Blois in 1166. Possibly he was travelling there and it may be more than coincidental that a Master Walter appears in charters of the cathedral of Beaumont just after this.

<sup>101</sup> Martin and Mouton, *Chartes de l'évêché d'Orléans* (Paris, 1870), 1, 49-50. What the Master Stephen mentioned in Gregory IX in 1190 as one of a community to examine the works of Aristotle? The first supposition is that there is no such supposition. Master Stephen of Provins seems to have been a very common name in this period. See C. H. Baskin, "Two Master Petrus in Philadelphia," in *Woodstock Journal of the History*, 1906, iv, 100-5.

<sup>102</sup> *Ibid.*, 106-7.

<sup>103</sup> *Epist.*, viii, 161. For the William's letter to the chapter of Rheims in the same matter, *Ibid.*, p. 167.

<sup>104</sup> *Epist.*, xiii, 118, no. 161.

<sup>105</sup> 1. "Magister Petrus Cantor" attested a charter of Theobald, count of Champagne as early as 1141 at Troyes (*Ch. de l'évêché de Troyes* (14, 11, 100). A charter of 1140 shows Peter as archdeacon of Troyes (2). Before, *Calendrier de l'évêché de Troyes* de l'évêché

History, one of the most popular and influential works of the later Middle Ages, is dedicated to William as archbishop of Sens.<sup>10</sup> As the archbishop is not given the title legate which he received in 1196, and as Peter styles himself simply "priest of Troyes,"<sup>11</sup> it is probable that the work was presented to William when he first became archbishop.

Another scholar to dedicate his work to William as archbishop of Sens was the celebrated theologian, Peter of Poitiers, a disciple of Peter Lombard. As the dedication of the *Sentences* gives no indication that William is legate,<sup>12</sup> this work too would appear to have been presented to him shortly after his elevation to Sens in 1196. Peter's dedication is a eulogy of William, but we do not know whether his efforts received their due reward.

A manuscript of the Bibliothèque Municipale of Rheims has preserved for us a poem of eighty-eight verses celebrating the elevation of William to the see of Rheims.<sup>13</sup> Though this poem is not definitely dedicated to William, there can be little doubt that its eulogies were intended for his ears. The date of writing could not have been long after William's accession to Rheims. He is still the "new man" come to Rheims the city.<sup>14</sup> Though reference seems to be made to the coronation of Philip Augustus,<sup>15</sup> which took place on 1 November, 1179, the use of the *de Regis* (Paris, 1893, I, 98). He was archbishop in 1197 (ibid., v, 95 B.). The name "*Comenit*" or "*Comenitator*" is usually explained as implying that Peter "devoured" books. After reading a letter of Nicholas of Chabouss to Philip Augustus, dated 1179, one can hardly avoid giving the name a more literal interpretation. Nicholas wrote Peter something to the effect "dormis multiplex." "

<sup>10</sup> *Regis*, xviii, 1610f.

<sup>11</sup> Peter became chancellor of Paris in 1190. *Quelile and Chastelain*, I, 1, note 1.

<sup>12</sup> *Regis*, xvi, 1600f. As the date before which Peter was chancellor of Paris, see *Quelile and Chastelain*, I, 95, note.

<sup>13</sup> See *Parisiensis* printed the manuscript in *Bibliothèque municipale de Paris*, vol. 89, MS. 1179, fol. 107 and 108v. The poem begins:

"*Regis, Senis, ceteris, totius regis, totius  
Parisiensis, totius, totius, totius, totius.*"

It ends:

"*Regis, Senis, ceteris, totius regis.*"

<sup>14</sup> *Sens* I, 161, 162.

<sup>15</sup> "Et novis illis tibi, pater, eis senatus."

<sup>16</sup> *Sens* 17-18, fol. 161.

"*Quod bene possit tibi, tibi, tibi, tibi,  
Quod in de Regis, tibi, tibi, tibi.*"

present tense indicates that it is an event which is to happen in the future rather than one that has already occurred. Incidentally the poem gives us 1 January as the day of William's flight to Harlow, a fact which confirms (2).

A later hand in the margin ascribes these verses to Hildebert,<sup>100</sup> but his authorship is, of course, not of the question. As a matter of fact the poet himself tells us that he was named Peter.<sup>101</sup> It is impossible to tell which of the multitudes of Peters this may have been. It does not seem improbable, however, that he was Peter of Elga.<sup>102</sup> There are no objections to his authorship from a chronological point of view, and the verses show a remarkable similarity to those Peter of Elga wrote to celebrate the triumphs of Emperor Manuel and to those found in his *Seneca*.<sup>103</sup> The argument is strengthened by the highly allegorical way in which the poet treats his subject.<sup>104</sup>

100

"Vieilles maitresses, les les peines, souvent  
 Peines d'ailleurs, d'ailleurs, d'ailleurs.  
 Que-que, c'est-à-dire, c'est-à-dire, c'est-à-dire,  
 les peines, les peines, les peines, les peines.  
 C'est-à-dire, c'est-à-dire, c'est-à-dire, c'est-à-dire,  
 C'est-à-dire, c'est-à-dire, c'est-à-dire, c'est-à-dire."

**Figure 1**

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

<sup>10</sup> "Spécial d'élites indigènes/élites d'élites parvenues au sein  
l'élite: prêtres, fonctionnaires, militaires, etc.,  
les indigènes propres d'élite ont une culture  
française élevée: intellectuels, etc."

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<sup>107</sup> I suspect, for example, the first case is given above, note 118, with the first case of the *Principles of Geometry* (1899), cited, 100.

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Changes also affect interpretations of the status of the [p, t] node in the phonological hierarchy. For example, given

[illegible]

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■ **“The songwriters, the poets, the chroniclers tell the story, but we’re not the story.”**

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<sup>42</sup> *Junonia* cf. *laodice*, var. *laodice*, pallid. mites.  
*Alacris apollonides*, apollonides, apollonides, mites.  
*Junonia* *laodice* (Laf.), in the present observation,  
*Alacris* *laodice*, *laodice*, mites.  
 The specimens were collected, during the summer.



appreciation of hearing and letters, which the author finds so admirable a trait, is more characteristic of William of the White Hands than of William of Salicetile. Arguments from silence are dangerous, but the record of intellectual interests on the part of the latter has reached us. In the sole manuscript of the work, however, one finds immediately before the *Microcosmographie*, and written in the same hand, an astronomical table for 1178.<sup>107</sup> If, then, the work was dedicated to William of the White Hands, as these circumstances seem to indicate, we may conclude with reasonable assurance that the date was between 1178, when he became archbishop, and 1179, when he became cardinal, a date not given him in the address clause of the dedication.

The name William was far too common in the twelfth century to lend any material assistance in discovering the identity of the author. He could not have been William of Saint-Thierry as Clerval assumed,<sup>108</sup> nor is there any good reason for accepting the William of Salomon suggested by the *Historie illustrée de la France*.<sup>109</sup> The text itself affords hardly a clue to the problem. The only apparent subjective characteristic of the writer is a violent antipathy to the realm which he persistently contrasts with the physical. The former make "totum solium" is depend upon the combination of voice and eye, while the latter more truthfully realize that it consists in "the nature of all the celestial and earthly bodies and in the contemplation of all things above and below."<sup>110</sup> Elsewhere he contrasts matter to physical as philosophy to philosophy.<sup>111</sup>

Possibly some of this is a reflection of other writers, but there is too much warmth in Williams's remarks to make us believe

<sup>107</sup> H. C. B. Haking, *Studies in the History of Medieval Science* (Cambridge, 1895), pp. 16-18, note 16. Palaeographically the MS seems to belong to the late 12th or first half of the 13th century. It cannot be an autograph, because the mistakes are of a kind that no author would make. Words and sentences left out of the body of the text, are supplied in *intermarginis*. Elsewhere we find, too, there is a break in the middle of the page. What follows is referred to the top margin elsewhere. A marginal note informs us, however, that what ought to follow will be found on page seven. This surely suggests the work of a careless scribe.

<sup>108</sup> *See notes in Clerval*, p. 476. William of Saint-Thierry died before 1178.

<sup>109</sup> *Pal. lat.*, 79, 135. William of Salomon was pupil of Richard Fitzthierry (*Notable gens*, ii, 100). The "marcher" to which John refers must have antedated the *Microcosmographie* and cannot possibly be the *Microcosmographie*.

<sup>110</sup> *Ibid.* 136 and 14.

<sup>111</sup> *Ibid.* 136.

that he was entirely disinterested. At the beginning of the thirteenth century western doctors were divided into two schools, one basing its conclusions on inspection of the urine, the other relying on astrology. The medical are clearly this first school, though the physical hardly seem to be the components of astrological medicine. However this may be, such a main interest in doctors might justify an inference that the author himself was a doctor. If this is the case, it is indeed strange that he makes no use of the great authorities on medicine,<sup>12</sup> though it is rather the soul than the body with which he is dealing.

At first glance the treatise itself appears to be of extraordinary interest. The author seems to have a more general familiarity with the works of Aristotle than one would normally expect in a man writing between 1176 and 1178. It is true that he cites only the *Topics* by name,<sup>13</sup> but many of his statements reveal an acquaintance with materials which are not found in the *Organon*. In many places appear ideas and phrases which come unquestionably from the *Meteorology*, the *De Anima*, or the *De Caelo*. The whole latter part of the treatise is little more than a paraphrase of the introductory chapters of the fabled book of the *Neoplatonic Ethics*. But let us not be deceived! Our author, like so many of his contemporaries, knows his Aristotle at second hand. The crucial fact is that his *Microcosmographia* is a rather shameless plagiarism of the *De Natura Humani* of Neomarius.<sup>14</sup>

Despite the fragmentary character of our information as to the relations of William of the White Hands with the scholars and men of letters considered above, certain definite conclusions seem to be warranted. Clearly William had little of the restless,

<sup>12</sup> Apart from having been a doctor in the 12th statement concerning "appetitus spiritus infusus calidissimus" (fol. 4v). It seems strange that a doctor should not have been acquainted with Aristotle, though possibly it was the same writer that the remedy itself that was strange to him.

<sup>13</sup> Fol. 10v.

<sup>14</sup> This work had been translated from Greek into Latin by John, Bishop of Salerno, in the 11th century. A second translation was made by Rogerius de Parma who dedicated it to Emperor Frederick Barbarossa in 1186. There are several recent editions of the treatise, but I have had at my disposal only the old one of J. J. G. Van der Linden, *op. cit.*, 1887 ff.



inspiring intellect which has endowed Henry III of England and the Emperor Frederick II with a peculiar significance. His tastes were orthodox; his range of interests narrow. It was predominantly representations of theology or canon law who found places in his curia or dedicated works to him, such men as Stephen of Tournai, Melior of Pisa, Herbert of Bosham, Peter Comestor, and the second Peter of Blois. Perhaps the ecumenical William of the *Historiographia* may be classified as a representative of science, but his case is surely an exceptional one.

Yet the authority conferred by William's bias for canon law and theology was somewhat counterbalanced by more liberal and cultural interests. As we should perhaps expect of a former bishop of Chartres, William was fond of Latin poetry. Otherwise his devotion to Rhodius would not have been substantiated by the verses of Petrus, nor could Walter of Chatillon have moved him so integrally into his circle. Poets and canon lawyers rubbed elbows in Archbishop William's curia and vied with theologians for his favours, which ordinarily seem to have taken the form of ecclesiastical preferment. Perhaps other prelates and princes were as liberal in their treatment of men of letters as he, and certainly many patrons envied William in the variety of interest represented in their clientele. Yet few indeed have been associated with so goodly a number of distinguished scholars, or have had their names celebrated in the dedications of works which have proved so influential. Aside from official documents he has left us nothing of his own. Nevertheless he is justly assigned a position of significance in the intellectual history of his age.

JOHN R. WILLIAMS



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